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Government of Bengal
Legislative Department

Bengal Act XV of 1932

The Bengal
Municipal Act, 1932

As modified up to the 1st April 1939

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THE GOVERNMENT OF INDIA (ADAP-
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ORDER, 1937.

The following changes have been made in reprinting this Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted ;
- (2) amendments have been inserted in their proper places with explanatory foot-notes ;
- (3) some further foot-notes have been added for convenience of reference ; and
- (4) the marginal notes have, in some cases, been revised.

Bengal Act XV of 1932

(THE BENGAL MUNICIPAL ACT, 1932.)

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Bengal Act XV of 1932.

(THE BENGAL MUNICIPAL ACT, 1932.)¹

As modified up to the 1st April 1939.

(1st December 1932.)

An Act to consolidate and amend the law relating to municipalities in Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to municipalities in Bengal;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

5 & 6, Geo.
v, s. 81; 6
& 7 Geo.
v, c. 37; 9
& 10, Geo.
v, c. 101.

Part I.

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Bengal Municipal Act, 1932.

Short title,
extent and
commencement.

(2) It extends to the whole of Bengal, except Calcutta as defined by clause (11) of section 3 of the Calcutta Municipal Act, 1923.

Ben. Act
III of
1923.

(3) It shall come into force on such date as the '[Provincial Government]' may, by notification, appoint.

(4) Notwithstanding anything contained in sub-section (2), it shall not take effect in any cantonment or part of a cantonment without the consent of the '[Central Government]' previously obtained.

¹For Statement of Objects and Reasons, see *Calcutta Gazette, Extraordinary*, of the 18th March, 1932, and for Proceedings in Council, see *Bengal Legislative Council Proceedings*, Vol. XXXVIII, No. 3, pages 844-861; and Vol. XXXIX, No. 2, pages 177-194, 208-253 and 274-309; and Vol. XXXIX, No. 3, pages 30-72, 93-129, 141-189, 204-249, 280-324; and Vol. XXXIX, No. 4, pages 48-85, 94-116, 190-234, 255-316; and Vol. XXXIX, No. 5, pages 39-96, 120-176, 195-254; and Vol. XXXIX, No. 6, pages 113-147.

²The Act came into force on the 1st December 1932, vide notification No. 5716M., dated the 28th November 1932, published in the *Calcutta Gazette* of the 1st December 1932, Pt. I, p. 1942.

³These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the words "Governor General in Council", *ibid.*

(Chapter I.—Preliminary.—Secs. 2, 3.)

(5) Those provisions of this Act which are solely applicable to any part of the Darjeeling district shall come into operation only on such date and subject to such exceptions and modifications as the ¹[Provincial Government] may, by notification², direct.

Repeals, savings
and amend-
ments.

2. * * * * *

All municipalities constituted, ⁴***limits defined, regulations, measurements and divisions made, licenses and notices issued, taxes, tolls, rates and fees imposed or assessed, budgets passed, assessments made, plans approved, permissions or sanctions granted under the Bengal Municipal Act, 1884, shall, so far as they are in force at the commencement of this Act, be deemed to have been respectively constituted, ⁵* defined, issued, imposed, assessed, passed, made, approved or granted under this Act, and shall (unless previously altered, modified, cancelled, suspended, surrendered or withdrawn, as the case may be, under this Act) remain in force for the period (if any) for which they were so constituted, ⁶* defined, issued, imposed, assessed, passed, made, approved or granted.

Ben. Act
III of
1884.

* * * * *

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

"Bridge."

(1) "bridge" includes a culvert;

"Building."

(2) "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall, not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, but does not include a *hogla* or other similar kind of temporary shed erected on ceremonial or festive occasions;

"Building-line."

(3) "building line" means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend;

"Bustee."

(4) "bustee" means an area containing land occupied by, or for the purposes of, any collection of huts;

¹These words were substituted for the words "Governor in Council" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

²See notification No. 3435E.A., dated the 28th February 1936, published in the *Calcutta Gazette* of the 5th March 1936, Pt. I, p. 487.

³The words commencing "The enactments" and ending "Provided that" were repealed by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁴The words "bodies of Commissioners established" were omitted by s. 2(i) of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

⁵The word "established" was omitted, *ibid*.

⁶The second proviso to s. 2 which was repealed by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939), is omitted.

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(Chapter I.—Preliminary.—Sec. 3.)

(5) “carriage” means any wheeled vehicle, with springs or other appliances acting as springs, which is used for the conveyance of human beings, and includes a *jinrickshaw*, but does not include a motor vehicle or a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children; “Carriage.”

(6) “cart” means any cart, hackery or wheeled vehicle with or without springs, which is not a carriage or a motor vehicle as defined in this section and includes a hand-cart, but does not include the trailer of a motor vehicle, a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children; “Cart.”

(7) “connected-privy” means a privy which is directly connected with a sewer; “Connected-privy.”

(8) “conservancy” means the removal and disposal of sewage, offensive matter and rubbish; “Conservancy.”

(9) the expression “cubical extent”, when used with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey; “Cubical extent.”

(10) “dairy” includes any farm, cattle-shed, cow-house, milk-store, milk-shop, or other place from which milk is supplied only on, or for, sale or in which milk is kept, or used for the purposes of sale, or manufacture into butter, *ghee*, cheese, curds, or dried or condensed milk, for sale, “Dairy.”

and in the case of a dairyman or person selling milk, who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop, or a shop, or other place in which milk is sold for consumption on the premises only or a shop or place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place;

(11) “dangerous disease” means—

(a) cholera, plague, small-pox, cerebro-spinal meningitis and diphtheria; and

(b) any other disease which the ¹[Provincial Government] may, by notification, declare to be a dangerous disease for all or any of the purposes of this Act;

“Dangerous disease.”

¹See foot-note 3 on p. 1, *ante*.

(Chapter I.—Preliminary.—Sec. 3.)

- "District Magistrate." (12) "District Magistrate" means the chief magistrate in a district;
- "Drain." (13) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water;
- "Drug." (14) "drug" means any substance used as medicine or in the composition or preparation of medicines, whether for internal or external use;
- "Dwelling house." (15) "dwelling house" means a masonry or framed building constructed, used or adapted to be used wholly or principally for human habitation;
- "Food." (16) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters in'o or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;
- "Framed building." (17) "framed building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;
- "Habitable room." (18) "habitable room" means a room constructed or adapted for human habitation;
- "Health Officer." (19) "Health Officer" includes a Medical Officer of Health;
- "Hill municipality." (20) "hill municipality" means the Darjeeling Municipality and any other municipality, wholly or in part situated in a hilly tract, which the '[Provincial Government] may, by notification, declare to be a hill municipality;
- "Holding." (21) "holding" means land held under one title or agreement and surrounded by one set of boundaries:
- Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act.
- Explanation.*—Holdings separated by a street or other means of communication shall be deemed to be adjoining within the meaning of this proviso;
- "House." (22) "house" includes any hut, shop or ware-house;
- "House-gully." (23) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of

¹See foot-note 3 on p. 1, *ante*.

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(Chapter I.—Preliminary.—Sec. 3.)

serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air space above such passage or land;

(24) "hut" means any building which is constructed principally of wood, bamboo, mud, leaves, grass or thatch, and includes any temporary structure of whatever size or any small building (not being a masonry building) of whatever material made; "Hut."

(25) "inhabitant" used with reference to any local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein; "Inhabitant."

(26) "inhabited room" means a room in which some person passes the night, or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room; "Inhabited room."

(27) "land" includes benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; "Land."

(28) "living thing" includes any animal, bird or fish; "Living thing."

(29) "lodging-house" means a house in which pilgrims or other persons are harboured or lodged for hire for a single night or for some other short period and where there is ordinarily community of eating or sleeping accommodation; "Lodging-house."

(30) "market" includes any place where persons assemble for the sale of any living thing intended for human food or of any article of food; "Market."

(31) "masonry building" means any building other than a framed building or a hut and includes any structure a substantial part of which is made of masonry or of steel, iron or other metal; "Masonry building."

(32) "motor vehicle" includes a vehicle, carriage or other means of conveyance propelled or which may be propelled, on a road by electrical or mechanical power either entirely or partially; "Motor vehicle."

(33) "municipal drain" means a drain vested in the Commissioners; "Municipal drain."

(34) "municipality" means any place in which this Act, or any part thereof, is in force; "Municipality."

(Chapter I.—Preliminary.—Sec. 3.)

"Notification." (35) "notification" means a notification published in the ¹[*Official Gazette*];

"Occupier." (36) "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or damages on account of the occupation of such land or building, and includes an owner living in, or otherwise using, his own land or building and also a rent-free tenant;

"Offensive matter." (37) "offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrifying substances and filth of any kind which is not included in sewage as defined in this section;

"Owner." (38) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver, or who would so receive such rent if the land, building or part thereof were let to a tenant;

"Plinth." (39) "plinth" means the part of a wall or structure between the ground-level and the level of the lowest floor of a building;

"Premises." (40) "premises" includes lands, buildings, vehicles, tents, vans, structures of any kind, streams, lakes, sea-shore, drains, ditches or places open, covered, or enclosed, whether built on or not, and whether public or private, and whether natural or artificial, and whether maintained or not under statutory authority, and any vessel lying in any river, harbour or other water not being a port declared under the Indian Ports Act, 1908;

XV of
1908.

"Prescribed." (41) "prescribed" means prescribed by this Act or by rules or by-laws made thereunder;

"Private drain." (42) "private drain" means any drain which is not a municipal drain as defined in this section;

"Private street." (43) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street as defined in this section, but does not include a passage securing access to less than four premises, or a passage provided in effecting the partition of any masonry building amongst joint owners, where such passage is not less than eight feet wide;

"Public street." (44) "public street" means any street, road, lane, gully, alley, passage, pathway, square or court whether

¹These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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(Chapter I.—Preliminary.—Sec. 3.)

a thoroughfare or not, over which the public have a right of way, and includes—

- (a) the access or approach to a public ferry,
- (b) the roadway over any public bridge or causeway,
- (c) the footway attached to any such street, public bridge or causeway,
- (d) the passage connecting two public streets, and
- (e) the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, *ail*, hedge or pillar of the premises, if any, abutting on the street, or if a street alignment has been fixed, then up to such alignment;

Ben. Act.
VI of
1914.

(45) "registered medical practitioner" means a medical practitioner registered under the Bengal Medical Act, 1914. "Registered medical practitioner."

(46) "rubbish" means dust, ashes, broken bricks, mortar, broken glass, and refuse of any kind which is not offensive matter or sewage as defined in this section; "Rubbish."

(47) "school" includes a *maktab*, a *madrassah* and a *tol*; "School."

(48) "service-privy" means a fixed privy which is cleansed by hand, but does not include a movable commode; "Service-privy."

(49) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds; "Sewage."

(50) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat; "Slaughter-house."

(51) "street" means a public or private street; "Street."

(52) "street alignment" means the line dividing the land comprised in and forming part of a street from the adjoining land; "Street alignment."

(53) "the Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act; "The Commissioners."

(54) "[Magistrate]" includes the District Magistrate, the Magistrate in charge of a division of the "Magistrate."

²This word was substituted for the words "the Magistrate" by s. 2 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter I.—Preliminary.—Secs. 4, 5.)

district in which division a municipality is constituted, and every Magistrate of the first class subordinate to the District Magistrate to whom the District Magistrate may have made over any duties under this Act;

"Watercourse." (55) "watercourse" includes any river, stream, or channel, whether natural or artificial;

"Water for domestic purposes." (56) "water for domestic purposes" shall not be deemed to include a supply—

(a) for animals or for washing carriages, where such animals or carriages are kept for sale or hire,

(b) for any trade, manufacture or business,

(c) for fountains,

(d) for watering gardens or streets,

(e) for any ornamental or mechanical purpose,

(f) for building purposes, or

(g) for flushing purposes, except a supply allowed for flushing connected-prives in accordance with a resolution of the Commissioners;

"Water-works." (57) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, cuts, sluices, mains, pipes, culverts, engines, hydrants, stand-pipes, conduits, and all machinery, lands, buildings, bridges, and things for supplying or used for supplying water;

"Year." (58) "year" means a year beginning on the first day of April.

Extent of power conferred on an authority. 4. (1) Where a power is expressed as being conferred on any authority to require a person to do one thing or do another thing, that authority may, in its discretion, require the person to do either thing or, if the nature of the case permits, both of the things, or may give the person the option of doing whichever of the things he chooses.

(2) Where the power is expressed as being conferred on any authority to require a person to do a number of things, that authority may from time to time in its discretion require that person to do any one or more of those things.

Power to define character of building.

5. The Commissioners at a meeting may decide whether any particular building is a masonry building, a framed building, or a hut, or is a lodging-house, as defined in section 3, and their decision shall be final.

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(Chapter II.—The Municipalities.—Sec. 6.)

Part II.

CHAPTER II.

The Municipalities.

The creation of municipalities.

6. (1) The ¹[Provincial Government] may, by notification, and by such other means as it may determine, declare its intention—

Declaration of intention to constitute, abolish or alter limits of municipality.

- (a) to constitute any town, together with, or exclusive of, any railway station, village, land or building in the vicinity of any such town a municipality under this Act; or
- (b) to withdraw any municipality from the operation of this Act; or
- (c) to exclude from a municipality any local area comprised therein and defined in the notification; or
- (d) to include within a municipality any local area contiguous to the same and defined in the notification; or
- (e) to divide any municipality into two or more municipalities; or
- (f) to unite two or more municipalities so as to form one municipality; or
- (g) to define the limits of any municipality; or
- (h) to revise the boundaries of two or more contiguous municipalities; or
- (i) to alter the number of Commissioners of a municipality in consideration *inter alia* of the increase or decrease in the population, income, number of voters and commercial and general importance of the place:

Provided that a declaration shall not be made—

- (i) under clause (a) unless the ¹[Provincial Government] is satisfied that three-fourths of the adult male population of the town to which it refers are chiefly employed in pursuits other than agriculture, and that such town contains not less than three thousand inhabitants, and an average number of not less than one thousand inhabitants to the square mile of the area of such town;

¹See foot-note 3 on p. 1, *ante*.

(Chapter II.—The Municipalities.—Sec. 7.)

- (ii) under clause (b) and clauses (d) to (g), in the case of any municipality in which the conditions specified in proviso (i) are complied with, except on the recommendation of the Commissioners of the municipality or each of the municipalities concerned at a meeting;
- (iii) where any local area is to be excluded from a municipality under clause (c) of which area three-fourths of the adult male population are chiefly employed in pursuits other than agriculture and in which area the average number of inhabitants is not less than one thousand to the square mile, except after consideration of the views of the Commissioners at a meeting;
- (iv) under clause (d), unless the ¹[Provincial Government] is satisfied that three-fourths of the adult male population of the local area to which it refers are chiefly employed in pursuits other than agriculture;
- (v) under clause (h), except after consideration of the views of the Commissioners of each of the municipalities concerned at a meeting;
- (vi) where any part of a town or local area affected by any declaration under this section is a cantonment or part of a cantonment, ²* *.

(2) A copy, both in English and in Bengali, of every notification issued under sub-section (1) shall be posted up in a conspicuous place in the office of the Commissioners of the municipality or municipalities concerned, or, in the case of a notification under clause (a) of that sub-section, in the office of the District Magistrate, and in such other public places as the Commissioners or the District Magistrate, as the case may be, may direct;

and a public proclamation shall be made by beat of drum throughout the municipality or local area concerned that such copy has been so posted up, and is open to inspection in such office.

7. Any inhabitant of the town or local area, or any rate-payer of the municipality or municipalities in respect of which a notification has been published under section 6 may, if he objects to anything contained in the notification, submit his objection in writing to the ¹[Provincial Government] within three months from the date of the publication, and the ¹[Provincial Government] shall take his objection into consideration.

¹See foot-note 3 on p. 1, *ante*.

²The words "without the consent of the Governor General in Council previously obtained" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1932.]

(Chapter II.—The Municipalities.—Secs. 8—11.)

8. When three months from the date of the publication of the notification have expired, and after considering any objections which may be submitted, the¹[Provincial Government] may by notification—

Constitution, abolition or alteration of limits of a municipality.

- (a) constitute the town or any specified part thereof a municipality under this Act; or
- (b) withdraw the whole area comprised in the municipality from the operation of this Act; or
- (c) include the local area or any part thereof in the municipality or exclude it therefrom; or
- (d) divide the municipality into two or more municipalities or unite the municipalities, as the case may be; or
- (e) define the limits of any municipality; or
- (f) revise the boundaries of two or more contiguous municipalities; or
- (g) alter the number of Commissioners of a municipality in consideration *inter alia* of the increase or decrease in the population, income, number of voters and commercial and general importance of the place.

9. Where a dwelling-house, manufactory, warehouse, place of trade or business is situated within the limits of two or more adjacent municipalities the¹[Provincial Government] may, notwithstanding anything contained in this Act, by notification, declare within which of these municipalities such dwelling-house, manufactory, warehouse, place of trade or business shall be deemed to be included for the purposes of this Act.

Power to include certain dwelling-house, manufactory, etc., within a particular municipality.

10. When any local area is included in a municipality by a notification under clause (c) or clause (f) of section 8 all the provisions of this Act and of any rules, by-laws, notifications, or orders made thereunder, which immediately before such inclusion were in force throughout such municipality, shall be deemed to apply to such area unless the¹[Provincial Government] in and by the notification otherwise directs.

Application of Act and subsidiary orders in areas included within a municipality.

11. When any municipality is divided into two or more municipalities by a notification under clause (d) of section 8 then, notwithstanding anything contained in this Act, all the provisions of this Act and of any rules, by-laws, notifications, or orders made thereunder, which immediately before such division were in force in any part of the original municipality, shall be deemed to be in force in the same part of the municipalities

Continuance of Act and subsidiary orders in municipalities formed by division.

¹See foot-note 3 on p. 1, *ante*.

(Chapter II.—The Municipalities.—Chapter III.—The Municipal Authorities.—Secs. 12—15)

formed by the division, unless the ¹[Provincial Government] in and by the notification otherwise directs.

Discontinuance of Act and subsidiary orders in municipalities withdrawn from Act, or in areas excluded.

12. When the whole area comprised in a municipality is withdrawn from the operation of this Act, or when any part of such area is excluded from the municipality, by a notification under clauses (b), (c) or (f) of section 8, this Act, and all rules and by-laws made, orders, directions and notices issued and powers conferred thereunder shall cease to apply to such area or part, as the case may be.

Power to except municipality from provisions of Act unsuited thereto.

13. (1) If the circumstances of any municipality are such that, in the opinion of the ¹[Provincial Government] any of the provisions of this Act are unsuited thereto, the ¹[Provincial Government] may, on the recommendation of the Commissioners at a meeting, by notification, except the municipality or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the municipality until applied thereto by notification.

(2) While such exception as aforesaid remains in force, the ¹[Provincial Government] may make rules consistent with the provisions of this Act in respect of matters excepted from the operation of the said provisions.

Commissioners to erect and maintain boundary marks.

14. The Commissioners of every municipality already existing, and of every municipality newly constituted under this Act and of every municipality whose local limits are altered as aforesaid, shall cause to be erected and set up and thereafter maintain, substantial boundary-marks defining the limits or the altered limits of the area subject to their authority, as set out in any notification published under this chapter.

Part. III.

CHAPTER III.

The Municipal Authorities.

The constitution of the municipality.

Constitution and incorporation of municipality and number of Commissioners.

15. (1) There shall be established for each municipality a body of Commissioners having authority over the municipality and consisting of such number of Commissioners, not being more than thirty nor less than nine, as the ¹[Provincial Government] may specify in the notification constituting the municipality.

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 16, 17.)

(2) Such Commissioners shall be a body corporate by the name of the Municipal Commissioners of the place by reference to which the municipality is known, having perpetual succession and a common seal, and by that name shall sue and be sued.

16. Three-fourths of the total number of Commissioners shall be elected in the manner prescribed; the remaining one-fourth shall be appointed by the¹[Provincial Government]:

Proportion of elected and appointed Commissioners.

Provided that—

(1) in cases where the whole number of Commissioners is not evenly divisible by four, the one-fourth shall be ascertained by taking the number, next below the whole number, which is evenly divisible by four as the number to be divided;

(2) the¹[Provincial Government] may appoint all the Commissioners of a municipality newly created and constituted under this Act for a period not exceeding²[two years] from the date of the notification, under which such municipality is created and constituted;

(3) no person, other than an official, shall be appointed a Commissioner by the¹[Provincial Government]³[unless, irrespective of whether his name is or is not included in the electoral roll, he possesses the necessary qualifications of a voter.]

17. (1) Every municipality mentioned in Schedule II to this Act shall be excluded from the operation of section 16, and in any municipality so excluded four-fifths of the total number of Commissioners shall be elected in the manner prescribed and the remaining one-fifth shall be appointed by the¹[Provincial Government]:

Constitution of municipalities included in Schedule II.

Provided that in cases where the whole number of Commissioners is not evenly divisible by five, the one-fifth shall be ascertained by taking the number, next below the whole number, which is evenly divisible by five, as the number to be divided.

(2) The¹[Provincial Government] may, at any time, include in, or exclude from, the said schedule the name of any municipality.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "one year" by s. 3(i) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

³These words were substituted for the words "unless he is qualified for election as a Commissioner" by s. 3(ii) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter III.—The Municipal Authorities.—Sec. 18.)

Special provision
in regard to
industrial areas.

18. (1) Notwithstanding anything contained in section 16, the ¹[Provincial Government], by notification, stating the special circumstances, may, in the case of a municipality the development of which in its opinion is due to an appreciable extent to and dependent on the concentration of any industry or industries (including railways and shipping and industries connected therewith)—

²(i) increase the number of Commissioners to be appointed by the ¹[Provincial Government] beyond the proportion mentioned in that section in order to secure the proper representation of such industry or industries and of labour employed therein:

Provided that the number of Commissioners to be appointed by the ¹[Provincial Government] shall in no case exceed one-half of the total number of the Commissioners of the municipality; or

²(ii) (a) constitute industrial constituencies for the representation of such industry or industries and of labour employed therein on such basis as may appear to the ¹[Provincial Government] to be expedient if it considers that such industry or industries and labour should be represented by elected Commissioners, and

(b) provide for the representation of the inhabitants who are not directly concerned with such industry or industries by the formation of electoral constituencies for such inhabitants, on such basis as may appear to the ¹[Provincial Government] to be expedient;

and the ¹[Provincial Government] may further provide for election by general electorates in any portion of such municipality.

²(2) In any municipality where the number of Commissioners to be appointed by the ¹[Provincial Government] is increased in the manner mentioned in clause (i) of sub-section (1) or where any industrial constituency is constituted in the manner mentioned in sub-clause (a) of clause (ii) of that sub-section, the appointment of such additional Commissioners, or the

¹See foot-note 3 on p. 1, *ante*.

²Clauses (i) and (ii) were substituted for the original clauses (i) and (ii) by s. 4 (a) of the Bengal Municipal Act, 1936 (Ben. Act XI of 1936).

²Sub-section (2) was substituted for the original sub-section (2) by s. 4 (b) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 19—21.)

election of Commissioners from such constituency, as the case may be, shall be made from persons directly concerned in or connected with such industry or industries and the labour employed therein.

(3) In any municipality to which the provisions of sub-section (1) are applied the electoral roll shall be prepared and the elections held in such manner as the ¹[Provincial Government] may prescribe.

19. (1) The ¹[Provincial Government] shall by rule provide for the representation of a minority community within a municipality by reserving seats for it among those to which Commissioners are to be elected under section 16 or section 17. The number of seats so reserved shall be in accordance with the proportion borne by such community to the total population of the municipality according to the latest census.

Representation of minority communities.

(2) No person belonging to a minority community for which seats are reserved under sub-section (1) shall, if eligible for election as a Commissioner, be disqualified by the operation of this section from election to any seat not so reserved.

Explanation.—The ¹[Provincial Government] shall determine whether any community in a municipality shall be deemed to be a minority community for the purposes of this section.

20. The ¹[Provincial Government] may, in case of new municipalities of its own motion, and in case of municipalities already in existence at the time the notification is made, after consideration of the views of the Commissioners at a meeting, by notification, divide any municipality into wards for the purpose of the election of Commissioners and determine the number of Commissioners to be elected from each such ward.

Power to divide municipality into wards and to fix the number of Commissioners of each ward.

21. (1) A Committee consisting of the Chairman and two Commissioners to be appointed by the Commissioners at a meeting for this purpose shall prepare and publish at the time and in the manner prescribed an electoral roll showing the names of persons qualified to vote.

The electoral roll.

(2) Every person whose name appears in the final electoral roll published under this section shall, so long as such roll remains in force, be entitled to vote at an election and no person whose name does not appear in such roll shall vote at an election.

(3) When a municipality has been divided into wards the electoral roll shall be divided into separate lists for each ward.

¹See foot-note 3 on p. 1, ante.

(Chapter III.—The Municipal Authorities.—Sec. 22.)

(4) The electoral roll as published shall remain in force till the publication of a fresh electoral roll.

(5) The preliminary and final electoral rolls shall be printed and be made available for purchase by any inhabitant of the municipality at a reasonable price to be fixed by the Commissioners at a meeting.

General dis-
qualifications
for being a
Commissioner.

22. (1) A person shall not be eligible for election or appointment as a Commissioner if such person—

- (a) has been adjudged by a competent court to be of unsound mind; or
- (b) is under twenty-one years of age; or
- (c) is an undischarged insolvent; or
- (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (e) is a municipal officer or servant or holds any office of profit under the Commissioners; or
- (f) has, directly or indirectly, by himself or by his partner or employer or any employé, any share or interest in any contract or employment with, by, or on behalf of, the Commissioners:

Provided that notwithstanding anything contained in clause (f) no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of land or any agreement for the same; or
- (ii) any agreement for the loan of money or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Commissioners is inserted; or
- (iv) any incorporated company which contracts with or is employed by the Commissioners.

(2) If any person is or has been convicted by a criminal court of any such offence as in the opinion of the ¹[Provincial Government] involves moral turpitude and which carries with it a sentence of transportation or imprisonment for a period of more than six months such person shall not, unless the offence of which he was convicted has been pardoned, be eligible for election or appointment for five years from the date of expiration of the sentence:

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter III.—The Municipal Authorities.—Sec. 23.)

Provided that, on application made by a person disqualified under this sub-section, the ¹[Provincial Government] may remove the disqualification by an order made in this behalf.

23. (1) No person shall be qualified to be elected a Commissioner of a municipality, who is not entitled to vote at an election of Commissioners of such municipality. Qualifications of Commissioners and voters.

(2) A person shall not be entitled to vote at an election of Commissioners in any municipality unless such person,

- (i) has attained the age of twenty-one years, and
- (ii) is a British subject or the subject of any State in India, or being an alien has been exempted from the disabilities imposed by the Bengal (Aliens) Disqualification Act, 1918, and

Ben. Act
III of
1918.

²[(iii) has, for a period of not less than twelve months immediately preceding such election, been resident within the limits of the municipality, or has for the said period immediately preceding such election been in occupation of a holding ³ and carrying on any trade or profession, within the said limits, and either—]

⁴(a) has, during the financial year immediately preceding the year in which such election is held, paid, for such financial year, any sum in respect of the municipal rates specified in clause (a), (b), (c) or (d) of sub-section (1) of section 123 ⁵[or, in the case of the Municipality of Howrah, any sum as consolidated rate under the provisions of the Calcutta Municipal Act, 1923, as extended to that Municipality] or paid, in respect of municipal fees and taxes * * * * * for such financial year, an aggregate amount not less than the sum prescribed by the ¹[Provincial Government] in this

Ben. Act
III of 1923.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the first 6 lines of clause (iii) by s. 3(1) of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

³The comma was omitted by s. 5(1) (i) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

⁴Sub-clause (a) was substituted for the original sub-clause (a) by s. 3 (2) of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

⁵These words were inserted by s. 5 (1) (ii) (a) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

⁶The brackets and words "(other than cart registration fees)" were omitted by s. 5 (1) (ii) (b), *ibid*.

(Chapter III.—The Municipal Authorities.—Sec. 23.)

behalf as a minimum for the municipality:

Provided that any person shall be entitled to vote at the first election held under this Act who has, during the financial year immediately preceding the year in which such election is held, paid, for such financial year, any sum in respect of rates as defined in section 15 of the Bengal Municipal Act, 1884, or

Ben. Act
III of
1884.

(b) has, during the said financial year, been assessed to income-tax, or

(c) being a graduate or licentiate of any University, or having passed the Matriculation Examination of the Calcutta University, or a corresponding standard of the same or any other University, or the High School Examination of the Board of Intermediate and Secondary Education, Dacca, or the Senior Madrasah Examination under the old or the reformed scheme, or the Sanskrit Title Examination of the Calcutta Sanskrit Association, or being a registered medical practitioner under the Bengal Medical Act, 1914, or holding a certificate authorising him to practise as a pleader or as a *mukhtear* or as a revenue agent, lives in a holding, or part of a holding in respect of which there has been paid¹, [during the said financial year, any sum as municipal rates for such financial year.]

Ben. Act
VI of
1914.

(3) No person shall be entitled to vote at an election of Commissioners in any municipality who has been adjudged by a competent court to be of unsound mind.

(4) A company, body corporate, firm, or other association of individuals, as such, shall not be entitled to vote in its own name at an election, but may, subject to the provisions of the Bengal (Aliens) Disqualification Act, 1918, obtain the registration of the name of one of its members as its representative who will be entitled to vote if it possesses the qualifications set forth in sub-clause (a) ²[or] sub-clause (b) of clause (iii) of sub-section (2).

Ben. Act
III of
1918.

¹These commas and words were substituted for the words "any sum as municipal rates during the year aforesaid" by s. 3 (3) of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

²This word was substituted for the word "and" by s. 3 (4) of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

of 1932.]

(Chapter III.—The Municipal Authorities.—Sec. 24.)

(5) (i) Every member of a joint family who is at the time of the preparation of the electoral roll and has been for a period of not less than twelve months immediately preceding such election resident within the limits of the municipality, if he is qualified under clauses (i) and (ii) of sub-section (2), shall be entitled to vote if such joint family has during the financial year immediately preceding the year in which the election is held paid ¹[for such financial year] any sum in respect of the municipal rates specified in clauses (a), (b), (c) or (d) of sub-section (1) of section 123 ²[or in respect of the consolidated rate under the provisions of the Calcutta Municipal Act, 1923, as extended to the Municipality of Howrah] or has, during the said financial year, been assessed to income-tax.

Ben. Act
III of
1923.

(ii) If a joint family has during the said financial year paid in respect of municipal fees and taxes * * * for such financial year an aggregate amount not less than the sum prescribed by the ⁴[Provincial Government] in this behalf as a minimum for the municipality, every member of such joint family, who is at the time of the preparation of the electoral roll and has been for a period of not less than twelve months immediately preceding such election resident within the limits of the municipality, shall be entitled to vote if he is qualified under clauses (i) and (ii) of sub-section (2) and if his share of the said fees and taxes amounts to the minimum prescribed for that municipality:

Provided that where the total amount paid by a joint family does not equal or exceed the amount necessary to entitle every member of the joint family to vote, one of the members of such joint family as its representative shall be entitled to vote except in case where any member of such joint family is enrolled to vote separately and individually in respect of his share in the joint property.

24. (1) The first general election of Commissioners of a municipality shall be held under the provisions of this Act at such time as the ⁵[Provincial Government] may prescribe ⁶and the Commissioners elected or appointed under the Bengal Municipal Act, 1884, shall, subject to the provisions of section 59, be deemed to have

Election of
Commissioners.

Ben. Act
III of
1884.

¹These words were inserted by s. 5 (2) (i) (a) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²These words were substituted for the words "for such financial year" as inserted by the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933), by s. 5 (2) (i) (b) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

³The brackets and words "(other than cart registration fees)" were omitted by s. 5 (2) (ii), *ibid.*

⁴See foot-note 3 on p. 1, *ante*.

⁵These words were added by s. 4 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

(Chapter III.—The Municipal Authorities.—
Sec. 25.)

vacated their offices on the assembling of the first meeting of the newly formed body of Commissioners, at which a quorum was or is present, after such general election, unless they have been re-elected or reappointed, whether such meeting was or is held before or after the commencement of the Bengal Municipal (Amendment) Act, 1933.]

Ben. Act
IX of
1933.

(2) The ¹[Provincial Government] may issue such orders as it may consider necessary to give effect to the provisions of this Act in regard to the holding of the first general election referred to in sub-section (1) and in regard to any matter incidental and ancillary thereto.

(3) General elections of Commissioners shall take place every fourth year on such days as the District Magistrate may fix for each municipality in his district:

Provided that where the term of office of the Commissioners of a municipality has been extended by the ¹[Provincial Government] under sub-section (5) of section 56, the general election for that municipality shall take place as early as possible after the expiration of such term on a day to be fixed by the District Magistrate.

(4) Elections and appointments in respect of casual vacancies shall be held and made at such other times as may be prescribed in accordance with the provisions of this Act.

Deposit by
candidates for
election.

25. (1) On or before the date fixed for the nomination of candidates, each candidate for election as a Commissioner shall deposit with the Chairman the sum of rupees one hundred in cash and no candidate shall be deemed to be duly nominated unless such deposit has been made:

Provided that the ¹[Provincial Government] may reduce the amount of deposit to fifty rupees in the case of such municipality as it thinks fit.

(2) If a candidate who has made a deposit under sub-section (1) withdraws his candidature before he is registered as a candidate or within three days of his registration or if his nomination is refused, his deposit shall be returned to him, and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative.

(3) If the number of votes polled by a candidate ²[other than a candidate who is elected,] does not exceed ten *per cent.* of the total number of votes polled the deposit shall be forfeited to the Municipal Fund.

¹See foot-note 3 on p. 1, *ante*.

²These words were inserted by s. 6 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 25A—28.)

(4) The number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers counted.

25A. (1) Where a person who has been elected to be a Commissioner was not eligible for election on account of a disqualification mentioned in section 22, the election of such person shall be void upon the ²[Provincial Government] making a declaration to that effect:

Election of ineligible person to be a Commissioner.

Provided that such a declaration shall not be made if the question whether such person was so disqualified was raised in a petition under section 36 and decided on its merits or if such a petition, in which the question is raised, is pending disposal.

(2) No act done by such Commissioner in execution of the office before the time when the declaration under sub-section (1) is made shall be invalidated by reason of that declaration.

(3) If an election is declared void under sub-section (1) a date shall be fixed by the District Magistrate and the necessary steps taken for holding a fresh election for filling the vacancy, as though it had been a casual vacancy.

26. If the electorate in any municipality fails within the prescribed time to elect the number of Commissioners to be elected in accordance with the provisions of sections 16, 17 or 18 a date shall be fixed by the District Magistrate for another election and in case the electorate still fails to elect the number of Commissioners at such second election the ²[Provincial Government] may appoint Commissioners to complete that number.

On failure of election, Commissioners to be appointed by Government.

27. The manner of holding elections shall be prescribed by rules made under this Act:

Voting to be by ballot.

Provided that—

(i) when a poll is taken at any election of a Commissioner the voting at such election shall be by ballot to be conducted in the manner prescribed, and

(ii) no person shall be entitled to give more than one vote to any one candidate.

28. (1) Every person who by claiming a qualification which he knows that he does not possess to vote at a municipal election or by using false documents or by a false declaration or by any other deceitful means

Offences in respect of electoral list.

¹Section 25A was inserted by s. 7 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, ante.

(Chapter III.—The Municipal Authorities.—Sec. 29.)

procures ¹[or attempts to procure] the improper entry of the name whether of himself or of any other person in the electoral roll, or the improper omission of any name therefrom shall be punished with imprisonment which may extend to three months or with fine or with both.

(2) Every municipal officer or servant or polling officer who wilfully makes or procures ²[or attempts to make or procure] any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment which may extend to six months or with fine or with both.

Corrupt practices.

29. (1) A person shall be deemed to have committed a corrupt practice who directly or indirectly, by himself or by any other person—

- (i) induces or attempts to induce by fraud or coercion any voter to give or refrain from giving a vote in favour of any candidate;
- (ii) threatens any candidate or voter, or any person in whom a candidate or voter is interested with injury of any kind with a view to influence him in any way in connection with the election;
- (iii) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure with a view to influence him in any way in connection with the election;
- (iv) employs, instigates or threatens any form of social boycott of any voter or candidate or of anyone in whom such voter or candidate is interested;
- (v) with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any food or drink, or any money or valuable consideration, or any place or employment, or holds out any promise of individual advantage or profit to any person, including a promise of spiritual salvation;
- (vi) gives or procures the giving of a vote in the name of a voter who is not the person giving such vote;

¹These words were inserted by s. 8 (i) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²These words were inserted by s. 8 (ii), *ibid*.

of 1932.]

(Chapter III.—The Municipal Authorities.—
Sec. 30.)

(vii) makes any payment or promise of payment to any person on account of the conveyance of any voter to or from any place for the purpose of recording his vote:

Provided that nothing contained in this clause shall prevent a conveyance being hired by a voter or by several voters at their joint cost, for the purpose of conveying him or them to or from the poll;

(viii) offers any money or valuable consideration to any person to induce him to withdraw from being a candidate at an election, or, being a candidate accepts any money or valuable consideration so offered;

(ix) abets the doing of any of the acts specified in clauses (i) to (viii).

Explanations.—(a) A “promise of individual advantage or profit to a person” includes a promise for the benefit of the person himself, or of anyone in whom he is interested, but does not include a promise to further or oppose, or to vote for or against any particular municipal measure or work;

(b) no agent, clerk, messenger, or other person who may in accordance with rules made by the ¹[Provincial Government] be employed for remuneration by a candidate at an election shall by reason of such employment alone be deemed to come within the provision of this section.

(2) A corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

(3) Every person who is guilty of a corrupt practice at or in connection with an election held under the provisions of this Act shall be punished with imprisonment which may extend to six months or with fine or with both.

30. (1) Every person who applies for a ballot paper at an election, having already voted once at the same election and in the same ward or knowing that ²[his name is not included in the electoral roll], shall be

Fraudulent
voting and
personation.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words “he is not qualified to vote thereat” by s. 9 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

*(Chapter III.—The Municipal Authorities.—
Secs. 31—34.)*

punished with imprisonment which may extend to six months or with fine or with both.

(2) Every person who applies for a ballot paper in the name of any other person, living or dead, or of a fictitious person, shall be punished with the same punishment.

Infringement of
secrecy of
election.

31. Every polling officer, clerk or other person in attendance at the polling station who, except for some purpose authorised by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted, and every person who by any improper means procures any such information, shall be punished with imprisonment which may extend to six months or with fine or with both.

Offences by
polling officers.

32. Every polling officer who permits a person to vote knowing that such person is not entitled to vote, or who prevents a person from voting knowing that such person is entitled to vote, shall be punished with imprisonment which may extend to six months or with fine or with both.

Falsifying
result of
election.

33. Every person who in the course of electoral operations falsifies or attempts to falsify the record of an election by removing, destroying, altering or fabricating nomination papers or voting papers or by any other act or by any omission shall be punished with imprisonment which may extend to one year or with fine or with both.

Procedure
before
magistrate.

34. No magistrate other than a magistrate of the first class shall take cognizance of any offence punishable under sections 28 to 33 (both inclusive) nor shall any magistrate take cognizance of such offence,—

- (a) except on the complaint of a person whose name is on the electoral roll, and
- (b) unless such complaint has been made within fourteen days of the date of the declaration of the result of any election to which the offence relates, or within seven days of the date on which the offence is alleged to have been committed, and
- (c) except in the case of an offence punishable under sections 31 to 33 (both inclusive) unless the person complaining shall have deposited fifty rupees.

The deposit mentioned in clause (c) shall be refunded to the complainant if the complaint is found to be true

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*(Chapter III.—The Municipal Authorities.—
Secs. 35—37.)*

or if for any other reason the magistrate or the Court of Sessions so directs.

An appeal shall lie to the Court of Sessions from any conviction and sentence passed under sections 28 to 33 (both inclusive).

35. Every person convicted of an offence punishable under sections 28 to 33 (both inclusive) shall be disqualified from voting or from being elected in any election to which this Act applies and from holding the office of Chairman, or Commissioner under this Act for such period, not being less than three years nor more than six years from the date of his conviction, as the Court may by order determine. Order of disqualification.

36. If the validity of any election of a Commissioner is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election file a petition before the District Judge of the district within which the election has been or should have been held and shall at the same time deposit fifty rupees in court as security for the costs likely to be incurred: Proceedings to set aside an election.

Provided that the validity of such election shall not be questioned in any such petition—

- (a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or
- (b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll.

37. (1) Where a petition has been filed under section 36 the District Judge, or any judicial officer subordinate to him and not below the rank of a Subordinate Judge (hereinafter referred to in this chapter as the Judge) to whom the District Judge may transfer the petition, may ¹hold such inquiry in accordance with the prescribed procedure as he deems necessary]. Procedure and powers of Judge holding inquiry.

(2) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a civil court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

Act V
of 1908.

¹These words were substituted for the original words by s. 10 (i) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter III.—The Municipal Authorities.—
Secs. 38, 39.)

(3) The Judge may, at any stage of the proceedings, require the petitioner to deposit in court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security for the payment of the same, and if, within the time fixed by him, or within such further time as he may allow, such costs are not deposited or such further security is not furnished, as the case may be, may dismiss the petition.

1* * * *

Setting aside
of election.

38. ²[If the Judge, after holding an inquiry under section 37, is satisfied that]—

- (a) a candidate has committed any corrupt practice within the meaning of section 29 for the purpose of the election, or
- (b) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in the Indian Election Offences and Inquiries Act, 1920, or by reason of any form of general intimidation, including any form of social boycott, or XXXIX of 1920.
- (c) the result of election has been materially affected by any non-compliance with this Act or any rule made under this Act or by any mistake in the forms required thereby or by any error, irregularity, or informality on the part of any officer charged with or carrying out any duty under this Act or rules made under this Act, or
- (d) the result of election has been materially affected by improper acceptance or refusal of candidate's nomination,

²[he] shall set aside the election of such candidate, if he has been elected, and if the election is set aside for any cause which is the result of acts of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under section 42.

Scrutiny of
votes and
declaration in
other cases.

39. If, in any case to which section 38 does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of

¹Sub-section (4) was omitted by s. 10 (ii) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²These words were substituted for the words "The Judge, if he is satisfied that" by s. 11 (1), *ibid*.

³This word was inserted by s. 11 (2), *ibid*.

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(Chapter III.—The Municipal Authorities.—
Secs. 39A—43.)

¹[each] candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected. ²[Every candidate at the election to which the dispute relates shall be deemed to be a party to such dispute:]

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

39A. If the Judge after holding an inquiry under section 37 is satisfied that no ground exists for setting aside the election in the manner provided in section 38 or modifying it in the manner provided in section 39, he shall confirm the election.

Confirmation of election by the Judge.

39B. The decision or order of the Judge under section 38, 39 or 39A shall be final.

Decision of the Judge to be final on proceedings to set aside election.

40. If the Judge sets aside an election under section 38, he may, if he thinks fit, declare any person by whom a corrupt practice has in his opinion been committed within the meaning of section 29 to be disqualified from being a candidate for election in that or any other municipality for a period not exceeding six years, and the Judge's decision shall be final:

Disqualification of persons from being candidates who commit corrupt practices.

Provided, however, that such person may, by an order of the ⁴[Provincial Government], be at any time relieved from such disqualification.

41. Where a candidate, who has been elected to be a Commissioner, is declared by the Judge not to have been duly elected, acts done by him in execution of the office before the time when the decision is certified to the Commissioners shall not be invalidated by reason of that declaration.

Saving of acts done by a Commissioner before his election is set aside.

42. If an election is set aside by the Judge, a date shall forthwith be fixed and the necessary steps taken for holding a fresh election for filling up the vacancy, as though it had been a casual vacancy.

Fresh election when election set aside.

43. No election of a Commissioner shall be called in question in any court except under the procedure provided by this Act, and no order passed in any proceeding under sections 36 to 40 (both inclusive), shall be

Bar to interference by courts in election matters.

¹This word was substituted for the words "each such" by s. 12 (1) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²These words were inserted by s. 12 (2), *ibid.*

³Sections 39A and 39B were inserted by s. 13, *ibid.*

⁴See foot-note 3 on p. 1, *ante*.

(Chapter III.—The Municipal Authorities.—Sec. 44.)

called in question in any court and no court shall grant an injunction—

- (i) to postpone an election of a Commissioner, or
- (ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of a municipality of which he has been elected a Commissioner, or
- (iii) to prohibit the Commissioners formally elected or appointed for a municipality from entering upon their duties.

Rules.

44. For the purpose of election of Commissioners the ¹[Provincial Government] may, with respect to municipalities generally or to any municipality or class of municipalities, make such rules, as it may think fit, to regulate and determine—

- (a) the alteration of—
 - (i) the boundaries of, and
 - (ii) the number of Commissioners apportioned to,
 any ward of a municipality;
- (b) the preparation, publication and revision of the electoral roll, the registration of voters and the nomination and registration of candidates;
- (c) with reference to sub-clause (a) of clause (iii) of sub-section (2) and clause (ii) of sub-section (5) of section 23, the minimum sums entitling a person to vote;
- (d) the representation of a minority community under section 19;
- (e) the dates, time and manner of holding elections, including the manner of giving and recording votes;
- (f) the procedure to be followed by a Judge in inquiring into election petitions;
- (g) the employment of agents, clerks, messengers or other persons by a candidate for the purpose of an election; and
- (h) any other matter relating to elections or election petitions in respect of which this Act makes no provision or in the opinion of the ¹[Provincial Government] insufficient provision.

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 45—47.)

45. (1) The Commissioners of every municipality shall, at a meeting to be held within twenty-one days from the date of the publication in the ¹[*Official Gazette*] of the result of a general election of Commissioners in the municipalities, or of the names of the persons appointed to be Commissioners, whichever publication may be later, elect by name in the prescribed manner one of their number to be Chairman.

Election of
Chairman.

(2) In the case of a vacancy in the office of Chairman other than a vacancy occurring under the provisions of section 59 the Commissioners shall at a meeting to be held within twenty-one days from the date of the occurrence of the vacancy elect by name in the prescribed manner one of their number to fill the vacancy.

(3) If the election of a Commissioner who is also elected Chairman is set aside by the Judge under section 37, the Chairman shall be deemed to have vacated his office from the date of receipt by the Commissioners of such order.

(4) The meeting to be held under sub-section (1) shall be convened by the Chairman of the out-going body of Commissioners, or in the case of a newly created and constituted municipality by the Magistrate, and if notices of the meeting are not issued within ten days from the date referred to in sub-section (1) may be convened by requisition of any three of the Commissioners. Seven clear days' notice shall be given of the meeting.

(5) The meeting to be held under sub-section (2) shall be convened by the Vice-Chairman and if notices of the meeting are not issued within ten days from the date referred to in sub-section (2) there shall be a like right of convention thereof by three Commissioners and a like period of notice to that provided by sub-section (4).

46. (1) If within the period of twenty-one days fixed by sub-section (1) or sub-section (2) of section 45 the Commissioners fail to elect a Chairman, the ²[Provincial Government] shall appoint by name one of the Commissioners to be Chairman.

Appointment of
Chairman on
failure to elect.

(2) The Commissioner so appointed shall ordinarily be a non-official except when the ²[Provincial Government] is of opinion that it is necessary to appoint a Government official.

47. [*Status of appointed Chairman.*] Repealed by s. 5 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

¹See foot-note 1 on p. 6, ante.

²See foot-note 3 on p. 1, ante.

[Ben. Act XV

(Chapter III.—The Municipal Authorities.—
Secs. 48—52.)Election of
Vice-Chairman.

48. The Commissioners at a meeting shall elect by name in the prescribed manner one of their own number to be Vice-Chairman.

Dispute as to
elections of
Chairman or
Vice-Chairman.

49. If any dispute arises as to the election of a Chairman or Vice-Chairman the matter shall be referred to the ¹[Provincial Government], whose decision shall be final and shall not be questioned in any court.

Publication of
elections and
of nominations.

50. The names of all persons elected or appointed as Chairman, Vice-Chairman or Commissioners shall be published in the ²[*Official Gazette*].

Powers of
Chairman.

51. (1) The Chairman shall for the transaction of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the Commissioners and, where by any other law power is vested in the Commissioners for any purpose, the Chairman may transact any business or make any order authorised by that law in the exercise of that power, unless it is otherwise expressly provided in that law:

75(7)

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Commissioners at a meeting or exercise any power which is directed to be exercised by the Commissioners at a meeting.

(2) In any municipality where an Executive Officer is appointed under clause (ii) of sub-section (1) of section 67 the Commissioners at a meeting may, notwithstanding anything contained in sub-section (1), delegate to him all or any of the powers of the Commissioners referred to in the said sub-section and upon such delegation the Chairman shall cease to exercise the powers so delegated to the Executive Officer.

Delegation of
duties or powers
to Vice-Chairman
or certain officers.

52. The Commissioners at a meeting specially convened for the purpose or the Chairman may delegate to the Vice-Chairman or to the holder of any of the other offices referred to in sub-section (1) of section 73, all or any of the duties or powers of a Chairman as defined in this Act, and may at any time in the like manner withdraw or modify the same:

Provided that in the case of a Chairman appointed under section 46 the delegation of duties or powers to the Vice-Chairman by the Commissioners shall be subject to the approval of the ¹[Provincial Government]:

Provided also that nothing done by the Vice-Chairman which might have been done under the

¹See foot-note 3 on p. 1, *ante*.²See foot-note 1 on p. 6, *ante*.

of 1932.]

*(Chapter III.—The Municipal Authorities.—
Secs. 53—56.)*

authority of a delegation from the Chairman shall be invalid for want of or defect in such delegation if it be done with the express or implied consent of the Chairman and subsequently approved by the Commissioners at a meeting.

53. The Executive Officer may with the approval of the Commissioners at a meeting delegate all or any of his powers to the holder of any office under the Commissioners.

Delegation of powers by the Executive Officer.

54. The Vice-Chairman—

Duties of Vice-Chairman.

(a) shall, during a vacancy in the office of Chairman or the incapacity or temporary absence of the Chairman, perform any duty and, when occasion arises, exercise any power of the Chairman,

(b) shall, at any time, perform any duty and exercise, when occasion arises, any power delegated to him under section 52.

55. (1) The Commissioners at a meeting may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year.

Grant of leave to Chairman and Vice-Chairman.

(2) If the Chairman or Vice-Chairman is absent from his duties during any one year for more than the three months allowable by way of leave under this section, he shall be declared by the ¹[Provincial Government] to have vacated his office unless such absence is sanctioned by the ¹[Provincial Government].

56. (1) Except as otherwise provided in this Act,—

Tenure of office of Chairman, Vice-Chairman and Commissioners.

(a) a Commissioner, whether elected or appointed, shall hold office for four years commencing from the date of the first meeting of the newly-formed body of Commissioners after a general election of Commissioners in the municipality at which a quorum is present;

(b) an elected Chairman and a Vice-Chairman shall, subject to the provisions of section 59, hold office for four years from the date of his election and an appointed Chairman shall subject to the provisions of section 59 hold office for such period not exceeding four years as the ¹[Provincial Government] may in each case determine.

(2) The term of four years referred to in sub-section (1) shall be held to include any period which may

¹See foot-note 3 on p. 1, ante.

[Ben. Act XV

(Chapter III.—The Municipal Authorities.—Sec. 57.)

elapse between the expiry of the said four years and the date of the first meeting of the newly-formed body of Commissioners at which a quorum is present.

(3) A person ceasing to be a Commissioner or to be Chairman or Vice-Chairman by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or re-appointment.

(4) If the '[Provincial Government] in the exercise of its powers under clause (i) of sub-section (I) of section 6 increases the number of Commissioners of any municipality at any time before the expiry of the term of four years, provided by clause (a) of sub-section (I), the term of office of the Commissioners thus added shall not extend beyond the said term of four years as above defined.

(5) The '[Provincial Government] may extend the term of office of the Commissioners of a municipality for a period not exceeding one year beyond the term of four years, provided by clause (a) of sub-section (I), if in special circumstances (to be specified in the notification) it so thinks fit.

Oath of allegiance
to be taken by
Commissioners.

57. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected or appointed to be a Commissioner shall before taking his seat make, ²[in the presence of the other Commissioners (or such number of them as would be sufficient to form a quorum at a meeting) assembled for a meeting of which notice has been given.] an oath or affirmation of his allegiance to the Crown in the following form, namely:—

elected
“I, A. B., having been ——— a Commissioner
appointed
of this municipality, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King-Emperor of India, His heirs and successors, and that I will faithfully discharge the duties upon which I am about to enter.”

(2) Any person who having been elected or appointed a Commissioner fails to make, within three months of the date on which his term of office commences, the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

(3) Notwithstanding anything contained in the Indian Oaths Act, 1873, every elected or appointed Commissioner of a municipality holding office at the

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words “at a meeting of the Commissioners” by s. 14 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

of 1932.]

(Chapter III.—The Municipal Authorities.—
Sec. 57.)

commencement of this Act shall, at the first meeting of the Commissioners which he attends after the commencement of this Act, make an oath or affirmation of his allegiance to the Crown in the following form, namely:—

“I, A. B., a Commissioner of this municipality, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King-Emperor of India, His heirs and successors, and that I will faithfully discharge the duties of a Commissioner of this municipality.”

(4) Any elected or appointed Commissioner holding office at the commencement of this Act who fails to make, within three months from the commencement of this Act, the oath or affirmation laid down in sub-section (3) shall cease to hold his office and his seat shall be deemed to have become vacant.

Ben. Act
IX of
1933.

¹(5) Where any person has failed whether before or after the commencement of the Bengal Municipal (Amendment) Act, 1933, to make the oath or affirmation of allegiance or has made such oath or affirmation otherwise than in accordance with the provisions of this section and the ²[Provincial Government] is satisfied that the failure of such person to comply with the provisions of this section was due to inadvertence or misapprehension or that such person is an alien exempted from the disabilities imposed by the Bengal (Aliens) Disqualification Act, 1918, in respect of election or appointment as a Commissioner, the ²[Provincial Government] may declare that the failure of such person to comply with the provisions of this section is condoned.

Ben. Act
III of
1918.

¹(6) When a declaration has been made by the ²[Provincial Government] under sub-section (5) in respect of any person, such person shall be deemed to have continued notwithstanding his default to hold his office, and all acts done by him or by the Commissioners or by any municipal officer or servant before the date of the said declaration shall be and shall be deemed to have always been as valid and lawful as if the person in respect of whom the declaration has been made had made the oath or affirmation of allegiance in accordance with the provisions of this section.

¹(7) Where all the Commissioners of a municipality have failed to make the oath or affirmation under this section or where the number of Commissioners who have made the oath or affirmation is insufficient to allow of a quorum being formed under section 82 and the ²[Provincial Government] is not satisfied that the failure

¹Sub-sections (5), (6) and (7) were added by s. 6 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

²See foot-note 3 on p. 1, *ante*.

(Chapter III.—The Municipal Authorities.—
Secs. 58, 59.)

of the Commissioners who have failed to make the oath or affirmation was due to inadvertence or misapprehension, the ¹[Provincial Government] may, by an order published in the ²[*Official Gazette*], supersede the Commissioners of the municipality for a period to be specified in the order and thereupon the consequences specified in clauses (b) and (c) of sub-section (1) of section 554 shall ensue. Thereafter the ¹[Provincial Government] shall, as soon as may be convenient, reconstitute the Commissioners of the municipality by a fresh general election and fresh appointment and the persons who failed to make the oath or affirmation shall not be deemed disqualified for election or appointment.

Filling of
vacancies and
tenure of office
of person
filling vacancy.

58. (1) If the election of any Commissioner ³[is set aside] under the provisions of section 38 and the Judge does not declare that person to be disqualified for the purpose of such fresh election as may be held under section 42, the said person shall be eligible for re-election in the vacancy so caused.

(2) If the election of any Commissioner is set aside under the provisions of section 38 and the Judge declares that person to be disqualified for the purpose of such fresh election as may be held under section 42, or if any Commissioner, Chairman or Vice-Chairman is by reason of his death, resignation or removal or by reason of his seat becoming vacant under the provisions of section 55 or section 57 unable to complete his full term of office, or if a Chairman or Vice-Chairman is granted leave under section 55 the vacancy so caused shall be filled by the appointment or election, as the case may be, of another person.

(3) The person elected or appointed to a vacancy referred to in sub-section (1) or sub-section (2) shall fill such vacancy for the unexpired remainder of the term for which such Commissioner, Chairman or Vice-Chairman would otherwise have continued in office or during his absence on leave, as the case may be.

Vacation
of office by
Chairman and
Vice-Chairman
after general
election.

59. (1) Notwithstanding anything contained in section 56, a Chairman and a Vice-Chairman shall be deemed to have vacated office as soon as the newly-formed body of Commissioners has assembled at the meeting held under the provisions of sub-section (1) of section 45.

(2) The Commissioners assembled shall thereupon appoint one of their number to preside at the meeting

¹See foot-note 3 on p. 1, *ante*.

²See foot-note 1 on p. 6, *ante*.

³These words were substituted for the words "is not set aside" by s. 7 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 60—62.)

and shall proceed to elect a Chairman and a Vice-Chairman:

Provided that if the Commissioners at the meeting fail to elect a Chairman, the Chairman of the outgoing body of Commissioners shall thereafter resume office and continue to hold the same until the new Chairman is elected or appointed.

60. (1) An appointed Chairman may resign by notifying in writing his intention to do so to the ¹[Provincial Government], and on such resignation being accepted shall be deemed to have vacated his office. Resignation of
Chairman, Vice-
Chairman or
Commissioner.

(2) An elected Chairman may resign by laying notice in writing of his intention to do so before the Commissioners at a meeting.

(3) A Vice-Chairman or a Commissioner may resign by notifying his intention to do so to the Chairman, who shall forthwith lay such notice before the Commissioners at a meeting.

(4) On a resignation under sub-section (2) or sub-section (3) being accepted by the Commissioners at a meeting, the Chairman, Vice-Chairman or Commissioner, as the case may be, shall be deemed to have vacated his office.

61. (1) The ¹[Provincial Government] may at any time remove a Chairman appointed by it. Removal of
Chairman and
Vice-Chairman.

(2) An elected Chairman and a Vice-Chairman may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners have given their votes at a meeting specially convened for the purpose.

62. (1) The ¹[Provincial Government] may remove an elected Commissioner on the ground of misconduct in the discharge of his duties if the removal is recommended by a resolution of the Commissioners passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of Commissioners of the municipality. Removal of
Commissioners.

(2) The ¹[Provincial Government] may remove any Commissioner—

- (a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or if after his election as Commissioner, he is convicted of an offence which in the opinion of the ¹[Provincial Government] involves moral turpitude; or

¹See foot-note 3 p. 1, ante.

(Chapter III.—The Municipal Authorities.—Sec. 62.)

- (b) if he has been declared by the ¹[Provincial Government] by notification issued after due inquiry to have violated his oath of allegiance; or
- (c) if he absents himself from meetings of the Commissioners for three months continuously without having obtained permission from the Commissioners at a meeting; or
- (d) if he, being a legal practitioner without the consent of the Chairman, acts or appears in any suit or other proceeding, on behalf of any other person, against the Commissioners, or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the Commissioners; or
- (e) if he knowingly acquires or continues to have, directly or indirectly by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Commissioners or holds any office of profit under the Commissioners. If he contravenes this clause he shall also be liable to be punished as provided in section 500; or
- (f) if he is in arrears for more than one year in payment of rates and taxes and the ¹[Provincial Government] after due inquiry is of opinion that the Commissioner has no reasonable cause for default.

*Explanation to clause (b).—*A person who by constitutional means endeavours to make changes in the constitution shall not be deemed to have thereby violated his oath of allegiance.

(3) Before removing a Commissioner under sub-section (1) or sub-section (2) the ¹[Provincial Government] shall allow the Commissioner concerned an opportunity of being heard.

(4) All acts and proceedings of any Commissioner removed under sub-section (1) or sub-section (2) shall, if done previously to such removal, be valid and effectual to all intents and purposes.

(5) Notwithstanding anything contained in clause (e) of sub-section (2) no person shall be deemed to be disqualified thereunder by reason only—

- (a) of his having a share or interest in—
 - (i) a contract entered into between the Commissioners and any incorporated or registered company of which such Commissioner is a member or share-holder; or

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 63—65.)

- (ii) any lease, or purchase of land, or any agreement for the same; or
 - (iii) any agreement for the loan of money, or any security for the payment of money only; or
 - (iv) any newspapers in which any advertisement relating to the affairs of the municipality is inserted;
- (b) of his being professionally engaged on behalf of the Commissioners as a legal practitioner and receiving a fee for services rendered in his professional capacity:

Provided that no such Commissioner shall act as a Commissioner or member of a committee, or take part in any proceedings relating to any matter in which he has a share or interest as described in clause (a) of this sub-section.

63. (1) A Commissioner who has been removed from his office under sub-section (1) or under clause (a) or clause (b) of sub-section (2) of section 62 shall not be eligible for election or re-election as a Commissioner, without the consent of the ¹[Provincial Government].

Effect of removal of a Commissioner.

(2) A Commissioner who has been removed from his office in any municipality under clauses (c), (d), (e) or (f) of sub-section (2) of section 62 shall not be elected or re-elected a Commissioner of that municipality within the period of three years from the date of his removal.

(3) A Chairman in respect of whom a final order has been made under section 62 removing him from the municipality as Commissioner, shall thereupon cease to be Chairman.

64. The Commissioners at a meeting may, from time to time, in accordance with rules framed by the ¹[Provincial Government], pay out of the Municipal Fund to the Chairman or Vice-Chairman, or a Commissioner such travelling expenses as may be incurred in performing journeys for carrying out the purposes of this Act.

Travelling expenses of Chairman, Vice-Chairman and Commissioner.

65. The ¹[Provincial Government] may make rules—

Power of Provincial Government to make rules.

- (a) prescribing the manner of holding the election of the Chairman and Vice-Chairman, and

¹See foot-note 3 on p. 1, ante.

(Chapter III.—The Municipal Authorities.—Sec. 66.)

- (b) regulating the payment of travelling expenses to the Chairman, Vice-Chairman or a Commissioner.

Establishment.

Appointment of
subordinate
officers.

66. (1) The Commissioners at a meeting may, subject to the provisions of this Act and the rules made thereunder from time to time, determine what officers and what servants of the Commissioners are necessary for the municipality and may fix the salaries and allowances to be paid and granted to such officers and servants.

(2) Subject to the scale of establishment approved by the Commissioners under sub-section (1), the Chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their places:

Provided as follows:

- (i) a person shall not be appointed to an office carrying a monthly salary of more than fifty rupees or a salary rising by periodical increments to more than fifty rupees without the sanction of the Commissioners at a meeting, and an officer or servant whose post carries a monthly salary of more than twenty rupees shall not be dismissed without such sanction;
- (ii) no appointment carrying a monthly salary of more than two hundred rupees or a salary rising by periodical increments to more than two hundred rupees shall be created without the sanction of the ¹[Provincial Government], and every nomination to, and dismissal from, any such appointment shall be subject to confirmation by the ¹[Provincial Government];
- (iii) no person holding an office carrying a monthly salary of one hundred rupees or more shall be dismissed unless such dismissal is sanctioned by a resolution of the Commissioners passed at a special meeting called for the purpose and, except with the consent of the ¹[Provincial Government] unless such resolution has been supported by the votes of not less than two-thirds of the whole number of Commissioners of the municipality.

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

*(Chapter III.—The Municipal Authorities.—
Secs. 67, 68.)*

67. (1) Notwithstanding anything contained in section 66 the ¹[Provincial Government] may, if it thinks necessary after consulting the Commissioners, require—

Appointment of Executive Office Secretary, etc., on requisition by Government.

(i) the Commissioners of any municipality or class of municipalities to appoint at a meeting all or any of the following officers—

- (a) a Secretary,
- (b) an Engineer,
- (c) a Health Officer, and
- (d) one or more Sanitary Inspectors;

(ii) the Commissioners of any municipality or class of municipalities the income (excluding opening balance) of which is in the opinion of the ¹[Provincial Government] above one lakh of rupees a year to appoint at a meeting an Executive Officer.

(2) An officer appointed under sub-section (1) shall be of such class or possess such qualifications as may be prescribed and shall be paid out of the Municipal Fund such salary and allowances, if any, as the Commissioners at a meeting, subject to the approval of the ¹[Provincial Government], may fix.

(3) Except as is provided in sub-section (3) of section 73, no Executive Officer, Secretary, Engineer, Health Officer or Sanitary Inspector shall be removed from office by the Commissioners except at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of Commissioners of the municipality.

(4) The provisions of clause (i)(a), (b) and (c) of sub-section (1) shall not, unless the ¹[Provincial Government] for reasons to be recorded in writing so directs, apply to any municipality, the income of which falls below one lakh of rupees a year.

68. (1) The Executive Officer shall be the principal executive officer of the Commissioners and all other officers and servants of the Commissioners shall be subordinate to him. He shall have the same right of being present at a meeting of the Commissioners or of any standing or special committee, and of taking part in the discussions thereat as if he were a Commissioner or a member of such committee and with the consent of the Chairman or the president of the meeting, as the case may be, he may at any time make a statement or

Power of the Executive Officer.

¹See foot-note 3 on p. 1, *ante*.

*(Chapter III.—The Municipal Authorities.—
Sec. 69.)*

explanation of facts, but he shall not vote upon, or make, any proposition at such meeting.

(2) Subject to the provisions of sub-section (2) of section 51 the Executive Officer shall act in respect of all other matters under the direction of the Chairman through whom he shall be responsible to the Commissioners.

Power to frame rules for pensions and gratuities or for the creation of a provident or annuity fund.

69. (1) The Commissioners, at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Commissioners present and voting at such meeting shall have voted, may, subject to the approval of the ¹[Provincial Government], make rules—

- (a) for the granting of pensions, gratuities and bonuses out of the Municipal Fund;
- (b) for the granting of compassionate allowances and gratuities to members of the families of deceased municipal officers and servants; and
- (c) for the creation and management of a provident or annuity fund (which may be combined with a system of bonuses based on length of service), for compelling contributions to such provident or annuity fund on the part of their officers and servants, and for supplementing such contributions out of the Municipal Fund.

(2) The Commissioners at a meeting may, from time to time, in accordance with such rules—

- (i) grant pensions or bonuses or both or grant allowances or annuities out of such provident or annuity fund to any of their officers or servants, as they may see fit;
- (ii) grant advances out of such provident fund to any of their officers or servants, as they may see fit;
- (iii) grant a gratuity based on the length of service of the deceased to any member of the family of any of their officers or servants who die while in the service of the Commissioners;
- (iv) by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting have voted,—
 - (a) grant a special pension or gratuity or both to any member of the family of any of their officers or servants who

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter III.—The Municipal Authorities.—
Secs. 70—72.)

has died from disease or injury contracted in the discharge of a duty which was attended with extraordinary bodily risk, and

(b) in addition to other benefits grant a bonus to any officer or servant in recognition of work or service of exceptional merit.

(3) For the purposes of this chapter the family of a municipal officer or servant shall be deemed to include his wife, his children, and his father, mother, brother or sister dependent upon him for support.

70. (1) The Commissioners shall contribute to the pension, gratuities and allowances of any servant whose services are lent or transferred by ¹[any Government] to the Commissioners.

Contributions in the case of servants of the Crown employed by the Commissioners.

(2) Such contribution shall be to the extent prescribed by ²[the conditions of service under which the officer is serving the Crown].

71. (1) A *mehter* or other servant of the Commissioners employed to remove or deal with sewage, offensive matter or rubbish shall not withdraw from his duties without the permission of the Commissioners, unless he has given notice in writing not less than one month previously of his intention so to withdraw.

Notice to be given by *mehters* of intention to withdraw from service.

(2) Any *mehter* or other such person who withdraws from his duties without giving such notice as aforesaid shall be liable to rigorous imprisonment for a period which may extend to one month or to fine not exceeding fifty rupees or both and shall forfeit all salary which may be due to him.

(3) The ³[Provincial Government] may direct that on and from a specified future date the provisions of sub-sections (1) and (2) shall apply also to any other specified class of servants of the Commissioners whose functions intimately concern the public health or safety.

72. (1) No person shall be eligible for employment as a municipal officer or servant if he has, directly or indirectly by himself or his partner or employer or employe, any share or interest in any contract or employment with, by, or on behalf of the municipality.

Prohibition of having share or interest in contract or employment with Commissioners.

¹These words were substituted for the word "Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were substituted for the words "the rules of the Government Civil Pension and Leave Codes", *ibid.*

³See foot-note 3 on p. 1, *ante*.

*(Chapter III.—The Municipal Authorities.—
Secs. 73, 74.)*

(2) If any municipal officer or servant acquires, directly or indirectly as aforesaid, any such share or interest otherwise than as such officer or servant he shall cease to be a municipal officer or servant and his office shall become vacant from the date on which he is removed from office by the authority which appointed him; and he shall also be liable to be punished as provided in section 500.

(3) Nothing in sub-sections (1) and (2) shall apply to any such share or interest as under sub-section (5) of section 62 it is permissible for a Commissioner to have without being thereby disqualified to be a Commissioner.

Indebtedness.

73. (1) A person shall not be eligible for the office of Executive Officer, Secretary, Engineer, Health Officer, Superintendent of Waterworks Sanitary Inspector, Assessor, Tax-Collector, Accountant or Overseer of a municipality if he is seriously in debt.

(2) If any question arises as to whether any person is seriously in debt within the meaning of sub-section (1), it shall be decided—

(a) in the case of a candidate for any office mentioned in sub-section (1), appointment to which is subject to the approval of the ¹[Provincial Government]—by the ¹[Provincial Government], and

(b) in the case of a candidate for any other office mentioned in sub-section (1)—by the authority which makes appointment to such office.

(3) If any person holding any of the offices mentioned in sub-section (1) is found, by the authorities respectively referred to in sub-section (2), to be seriously in debt, he may be removed from his office by the authority which appointed him.

**Relationship of
candidates for
employment
in the
municipality.**

74. Every person applying for employment in a municipality shall, if he is related by a blood relationship to, or is closely connected by marriage with, the Chairman, Vice-Chairman or any Commissioner, or any of the officers mentioned in sub-section (1) of section 73, notify in writing the fact and the nature of such relationship or connection to the authority making the appointment before the appointment is made, and in default thereof the appointment, if made, shall be deemed to be invalid.

¹See foot-note 3 on p. 1, *ante*.

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(Chapter III.—The Municipal Authorities.—Secs. 75—77.)

75. The Commissioners at a meeting may, subject to the sanction of the ¹[Provincial Government], make rules as to— Power to Commissioners to make rules.

(i) the duties, appointment, leave, fining, suspension and removal of municipal officers and servants;

(ii) the nature and amount of security to be furnished by different classes of municipal officers or servants for the proper discharge of their duties.

76. The ¹[Provincial Government] may make rules— Power to Provincial Government to make rules.

(a) prescribing the qualifications of candidates for employment by the Commissioners as Engineers, Health Officers, Superintendents of Water-works, Sanitary Inspectors, Assessors, Accountants, Overseers, female medical practitioners, nurses, health visitors, midwives and veterinary practitioners;

(b) prescribing the proportion of the pay and allowances of ²[servants of the Crown] employed by the Commissioners which shall be borne by the Commissioners, and providing for the control of such officers; and

(c) prescribing the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications:

³Provided that where the services of any servant of the Crown are lent or transferred by any Government other than the Provincial Government, the rules to be made under clause (b) of this section shall be made by that Government.

Conduct of Business.

77. (1) The Commissioners shall meet for the transaction of business at their office, at least once in every month, and as often as a meeting shall be called by the Chairman, or, in his absence, by the Vice-Chairman. Ordinary meetings.

(2) If there shall be no business to be laid before the Commissioners at any monthly meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each Commissioner three days before the date which is appointed for the monthly meeting.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "Government Officers" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The proviso was inserted, *ibid*.

(Chapter III.—The Municipal Authorities.—Secs. 78—82.)

Meeting on
requisition by
Commissioners.

78. (1) The Chairman, or, in his absence, the Vice-Chairman, shall call a special meeting of the Commissioners on a requisition signed by not less than one-third of the whole number of Commissioners of the municipality.

(2) If the Chairman or Vice-Chairman fails to give notice of a special meeting to be held within fifteen days after such requisition has been made, the meeting may be called on seven days' notice by any three of the Commissioners of the municipality.

Person to preside
at meetings.

79. The Chairman, or, in his absence, the Vice-Chairman, shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the Commissioners shall choose some one of their number to preside.

Decision of
questions and
casting vote.

80. (1) All questions which may come before the Commissioners at a meeting shall be decided by a majority of votes, unless otherwise provided in this Act.

(2) In case of equality of votes, the person presiding shall have a second or casting vote.

Commissioners
disqualified from
voting on certain
questions.

81. No Commissioner or member of a standing or other committee shall vote on any matter affecting his own pecuniary interest or on any question which regards exclusively the assessment of himself or the valuation of any property in respect of which he is in any way directly interested or of any property of or for which he is manager or agent or his liability to any tax, rate, toll or fee.

Quorum and
adjournment for
want thereof.

82. (1) No business shall be transacted at any meeting of the Commissioners unless such meeting has been called by the Chairman or Vice-Chairman, or, under section 45 or section 78, by persons signing a requisition, or under section 45 by the Magistrate, nor except for the election of a person to preside for the purposes of sub-section (3) unless a quorum shall be present.

(2) A quorum shall be, in any municipality in which the Commissioners are more than fifteen, five;

in any other municipality, a number being not less than one-third of the whole number of Commissioners:

Provided that in cases where the whole number of Commissioners is not evenly divisible by three, the one-third shall be ascertained by taking the number next above the whole number which is evenly divisible by three, as the number to be divided.

(3) If, at the time appointed for a meeting, or within half an hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day

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(Chapter III.—*The Municipal Authorities.*—Secs. 83—86.)

to be appointed by the Chairman or in his absence the Vice-Chairman and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

83. A list of the business to be transacted at a meeting and, in the case of a meeting called on a requisition, the terms of the requisition shall be sent to every Commissioner at least three days before the date appointed for the meeting, and no business of which such notice has not been given shall be brought forward at a meeting. Notice of list of business and of meetings.

84. (1) Minutes of the proceedings of all meetings of the Commissioners shall be entered in a book to be kept for the purpose, and shall be signed by the person presiding over the meeting, and such book shall be open to the inspection of the tax-payers. Minutes of proceedings.

(2) A copy of the minutes of the proceedings of all meetings of the Commissioners shall within seven days be forwarded by the Chairman to the District Magistrate.

(3) The minutes shall be laid before the next meeting of the Commissioners for confirmation and shall be also signed at such meeting by the person presiding thereat.

85. A Commissioner shall have the right to inspect all books of the municipality at such times as the Commissioners at a meeting may fix for this purpose: Inspection of books by Commissioners.

Provided that the Chairman may, for reasons to be recorded by him in writing, direct that any particular book shall not be inspected without the direction of the Commissioners at a meeting.

Standing Committees.

86. (1) The Commissioners at a meeting may, from time to time, appoint standing committees and by specific resolution, delegate to, or withdraw from such committees any of their functions, powers and duties and may also from time to time, by like resolution, refer to them for inquiry and report, or for opinion such subjects relating to the powers or duties of the Commissioners, as the Commissioners at a meeting may think fit. Formation of standing committees.

(2) Each standing committee shall consist of Commissioners who shall not be less than two-thirds of the whole number of the members of the committee and of such other persons not exceeding one-third in number

(Chapter III.—The Municipal Authorities.—Secs. 87, 88.)

as the Commissioners at a meeting may, from time to time, by a specific resolution determine and elect for this purpose.

(3) Each such committee shall perform the duties assigned to it by this Act or the rules made thereunder, and may exercise the powers delegated to it, and shall be liable to all the obligations imposed by this Act on Commissioners in respect of such powers.

(4) All the proceedings of any such committee shall be subject to confirmation or modification by the Commissioners at a meeting, unless in special cases the Commissioners at a meeting otherwise direct.

(5) All questions regarding the removal or resignation of members of a committee shall be settled by the Commissioners at a meeting.

Joint Committees.

Formation
of joint
committees.

87. (1) Subject to the prescribed restrictions the Commissioners of any municipality may join with any other local authority in constituting out of their respective bodies a joint committee, for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by the Commissioners or any of the local authorities concerned.

(2) Such joint committee may, from time to time, make rules as to its proceedings, and as to the conduct of correspondence relating to the purpose for which it is constituted.

Decision of
disputes between
local authorities.

88. (1) If a dispute arises between the Commissioners of a municipality and any other local authority on any matter in which they are jointly interested, such dispute shall be referred to the ¹[Provincial Government] whose decision shall be final and shall not be questioned in any court:

²Provided that if the dispute is between the Commissioners and a Cantonment Authority or the Port Authority of a major port, the decision of the Provincial Government shall be subject to the concurrence of the Central Government.

(2) If such dispute arises between the Commissioners of two municipalities who have for any purpose constituted or who may, for the specific purpose of settling the dispute, constitute a joint committee under the provisions of section 87 such joint committee shall, in

¹See foot-note 3 on p. 1, *ante*.

²This proviso was inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

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(Chapter III.—The Municipal Authorities—Secs. 89, 90.)

the first instance, inquire into the said dispute and after taking such evidence, and calling for such papers as it may think fit, shall deliver a written award on the matters in disputes which shall be binding on the Commissioners of both municipalities, provided that the Commissioners of either of the said municipalities may appeal against such decision to the ¹[Provincial Government], whose orders shall be final and shall not be questioned in any court:

Provided that no dispute shall be decided under this section until the Commissioners of the municipalities or the local authorities concerned have been heard or have had a reasonable opportunity of being heard.

(3) The ¹[Provincial Government] may regulate by rules the relations to be observed between Commissioners of municipalities and other local authorities in any matter in which they are jointly interested:

²Provided that any rules regulating the relations to be observed between the Commissioners of Municipalities and Cantonment Authorities or the Port Authorities of major ports, shall have no effect until they are approved by the Central Government.

Special Committees.

89. (1) The Commissioners at a meeting may, from time to time, by specific resolution, appoint a special committee to inquire into and report upon any matter (to be specified in such resolution) which may arise in connection with any of the powers, functions or duties of the Commissioners and which is not at the time under consideration by a standing committee constituted under section 86.

Formation
of special
committees.

(2) The provisions of sub-sections (3), (4) and (5) of section 86 shall be deemed to apply to every such special committee, which shall confine its enquiry to the matter specified in the resolution whereby it was constituted.

90. Notwithstanding anything contained in this Act, the Commissioners at a meeting may associate with any committee appointed under section 89 for such period as they may think fit any person of either sex who is not a Commissioner, but who may, in the opinion of the Commissioners, possess special qualifications for serving on such committee and such persons shall have a right to vote at meetings of the special committee, and shall be deemed to be members thereof for all purpose for such period:

Appointment
of persons
other than
Commissioners
as members of
committees.

¹See foot-note 3 on p. 1, ante.

²This proviso was inserted by Schedule IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—The Municipal Authorities.—Secs. 91, 92.)

Provided that the number of persons so appointed on any committee shall not exceed one-third of the whole number of the members of such committee.

Rules of Business.

Power to make rules as to business of Commissioners and committees.

91. The Commissioners at a meeting may, subject to the sanction of the ¹[Provincial Government], make rules as to—

- (a) the time of their meetings, the business to be transacted at meetings, and the period of notice of meetings and the manner in which such notice shall be given;
- (b) the conduct and control of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
- (c) the custody of the common seal;
- (d) the division of duties among the Commissioners and the powers to be exercised by members to whom particular duties are assigned;
- (e) the manner of appointment and the constitution of committees and the regulation and conduct of their business; and
- (f) the delegation of powers or duties to committees or to the Chairman of a committee.

Validation of acts and proceedings.

92. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in or any defect in the constitution of, the municipality or any standing, joint or special committee or any disqualification in less than half of the Commissioners or members of the committee present when the act or proceeding was done or taken;
- (b) any Commissioner having voted or taken part in any proceeding in contravention of the proviso to section 62; or
- (c) any defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Commissioners, or of any standing, joint or special committee, the minutes of the proceedings of which have been duly signed by the person presiding over the meeting shall be deemed to have been duly convened and when the minutes are

¹See foot-note 3 on p. 1, ante.

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(Chapter III.—*The Municipal Authorities*.—Chapter IV.—*Municipal Property and Finance*.—Secs. 93—95.)

confirmed at a subsequent meeting shall be deemed to be free from all defects and irregularity and the accidental omission to serve notice of a meeting on any Commissioner shall not affect the validity of the meeting.

Administration Report.

93. (1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the ¹[Provincial Government], the Commissioners shall submit to the ¹[Provincial Government] a report on the administration of the municipality during the preceding year in such form and with such details as the ¹[Provincial Government] may direct. A copy of the report shall be submitted by the Commissioners to the District Magistrate.

Annual administration report.

(2) The report shall be published in such manner as the Commissioners at a meeting may direct.

CHAPTER IV.

Municipal Property and Finance.

I.—PROPERTY, CONTRACTS AND LIABILITIES.

Municipal property.

94. The Commissioners of a municipality may acquire by gift, purchase or otherwise and hold property whether movable or immovable within or without the limits of the municipality.

Commissioners may acquire and hold property within or without municipality.

95. (1) All property within the municipality of the nature hereinafter in this section specified, other than property maintained ²[by the Central or the Provincial Government] or another local authority, shall vest in and belong to the Commissioners, and shall, with all other property of whatsoever nature or kind which may become vested in the Commissioners, be under their direction, management and control, that is to say—

Municipal property.

(a) all public streets, including the soil, the pavements, stones and other materials thereof

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "by Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Municipal Property and Finance.—
Sec. 95.)

and all drains, bridges, culverts, trees, erections, materials, implements and other things provided for such streets;

- (b) all public channels, water courses, springs, tanks, *ghats*, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, and other waterworks, whether made, laid or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, engines, works, materials and things, connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank:

Provided that water-pipes and any water-works connected therewith or appertaining thereto which with the consent of the Commissioners are laid or set up in any street by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees shall not be deemed to be public water-works by reason of their use by the public;

- (c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works:

Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain the subsoil appertaining thereto shall also be deemed to vest in the Commissioners:

Provided also that where any installation or work for the treatment or disposal of sewage is constructed by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees, the laying of sewers and other things appertaining thereto in a street, with the consent of the Commissioners, shall not by virtue of this clause or by reason of their use by the public cause such installation or sewers or works appertaining thereto to vest in the Commissioners;

- (d) all sewage, rubbish and offensive matter deposited on streets or collected by the Commissioners from streets, latrines, urinals, sewers, cesspools and other places;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and

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(Chapter IV.—Municipal Property and Finance.—
Secs. 96, 97.)

(f) all buildings erected by the Commissioners and all lands, buildings or other property transferred to the Commissioners ¹[by the Central or the Provincial Government] or acquired by gift, purchase or otherwise for local public purposes.

(2) The ²[Provincial Government] may, by notification, exclude any street, bridge, sewer or drain from the operation of this Act or of any specified section of this Act:

Provided that, if the cost of the construction of the work shall have been paid from the Municipal Fund, such work shall not be excluded from the operation of this Act or of any specified section of this Act without the consent of the Commissioners at a meeting.

(3) All property, movable or immovable, and all interest of any kind whatsoever, derived under any of the enactments specified in Schedule I, or otherwise, and vested in, or held in trust for, the late Commissioners under the Bengal Municipal Act, 1884, shall become vested in the Commissioners, and all rights of whatsoever description used, enjoyed or possessed by the late Commissioners under any such enactment shall become vested in the Commissioners for the purposes of this Act.

Ben. Act
III of
1884.

96. The Commissioners at a meeting may agree with the person in whom the property in any street, bridge, tank, *ghat*, well, channel or drain is vested to take over the property therein or the control thereof, and after such agreement may declare by notice in writing put up thereon or near thereto, that such street, bridge, tank, *ghat*, well, channel or drain has been transferred to the Commissioners.

Transfer of private streets, etc., to Commissioners.

Thereupon the property therein or the control thereof, as the case may be, shall vest in the Commissioners and such street, bridge, tank, *ghat*, well, channel or drain shall thenceforth be repaired and maintained out of the Municipal Fund.

97. (1) Any hospital, dispensary, school, library, museum, rest-house, *ghat* or market within a municipality, not being private property or the property of a religious institution or society, and all furniture and other articles appertaining thereto, not being such property, may, by order of the ²[Provincial Government] duly published on the spot, be vested in the Commissioners of the municipality; and thereupon all

Transfer of certain public institutions to the Commissioners.

¹See foot-note 2 on p. 49, *ante*.

²See foot-note 3 on p. 1, *ante*.

(Chapter IV.—Municipal Property and Finance.—
Sec. 98.)

endowments or funds belonging thereto shall be transferred to, and vested in, such Commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the ¹[*Official Gazette*] and in Bengali within the municipality.

(2) If the Commissioners at a meeting, after publication of the said notice, object to the transfer to themselves of any hospital, dispensary, school, library, museum, rest-house, *ghat*, or market on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions, as the Commissioners at a meeting may agree to accept.

(3) Sub-section (1) shall not apply to any hospital, dispensary, school, library, museum, rest-house, *ghat* or market which is vested in the Official Trustee of Bengal, or to any hospital, dispensary, school, library, museum, rest-house, *ghat* or market which is under the control of a properly constituted committee of management without the previous consent in writing of such committee of management.

Power to acquire property.

Acquisition
of land.

98. (1) When any land, whether within or without the limits of a municipality, is required—

- (a) for the purposes of this Act, or
- (b) for the recoupment of the cost or any portion of the cost of carrying out any such purpose,

the ²[Provincial Government] may, at the request of the Commissioners at a meeting, proceed to acquire it under the provisions of the Land Acquisition Act, 1894. I of 1894.

(2) Before requesting the ²[Provincial Government] to acquire land for the purposes referred to in clause (b) of sub-section (1) the Commissioners shall obtain previous sanction of the ²[Provincial Government] and give due notice of their intention and an opportunity to any objector, who appears within such period as they may fix, to be heard in this connection.

(3) On payment by the Commissioners of the compensation awarded under the Land Acquisition Act, 1894, and of any other charges incurred in acquiring

¹See foot-note 1 on p. 6, *ante*.

²See foot-note 3 on p. 1, *ante*.

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*(Chapter IV.—Municipal Property and Finance.—
Sec. 99.)*

the land including costs, if any, incurred by the¹[Provincial Government] in proceedings subsequent to acquisition concerning enhancement of the award for the land, the land shall vest in the Commissioners.

(4) The Commissioners shall be bound to pay to the²[Provincial Government] the cost, including all charges and costs referred to in sub-section (3), of any land acquired for the Commissioners on their application under the provisions of sub-section (1).

Abandonment of acquisition.

99. (1) In any case in which the Commissioners propose to acquire any land for the recoupment of the cost of carrying out any of the purposes of this Act, the owner of the land or any person having an interest therein greater than a lease for years having seven years to run may make an application to the Commissioners requesting that the acquisition of the land be abandoned in consideration of the payment by such person of a fee to be fixed by the Commissioners in that behalf.

Abandonment of acquisition in consideration of special payment.

I of 1894.

(2) The Commissioners shall admit every such application if it reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land:

Provided that unless the application is made by all persons who have an interest in the land greater than a lease for years having seven years to run, the application shall not be deemed to be admitted unless the person applying undertakes to pay in one instalment the full fee payable under sub-section (3) and thereafter pays such fee.

Explanation.—A mortgagee shall not be deemed to be a person having an interest in the land greater than a lease for years having seven years to run.

(3) If the Commissioners decide to admit any such application they shall forthwith inform the Collector, and the Collector shall thereupon stay proceedings for the acquisition of the land for such period as the Commissioners may request and the Commissioners shall proceed to fix a fee in consideration of which the acquisition of the land may be abandoned.

(4) In fixing the fee to be paid in consideration of the abandonment of the acquisition of the land, the Commissioners shall, so far as to them appear to be practicable, fix a sum which in their opinion represents

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the word "Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Municipal Property and Finance.—
Sec. 99.)

two-thirds of the increment in the value of the land which will in their opinion accrue to that land as a result of the improvements effected in the locality by the scheme for the purposes of which the acquisition has been sanctioned.

(5) Such fee shall be and remain a charge on the land, in respect of which it has been fixed, until the repayment thereof with interest in the manner herein-after provided and shall be payable by the applicant on or before a date to be fixed by the Commissioners in this behalf; and such date shall not be less than four years from the publication of the notification under section 6 of the Land Acquisition Act, 1894, nor shall such date be a date before that on which the scheme is declared by the Commissioners to be completed in so far as it affects such land.

(6) Before the date so fixed, the person from whom the Commissioners have arranged to accept the said fee, may, if the Commissioners are satisfied that the security offered by him is sufficient, execute an agreement with the Commissioners either—

(i) to leave the said fee outstanding as a charge on his interest in the land subject to the payment in perpetuity of interest at a rate not exceeding seven *per cent. per annum*, the said interest to run from the date fixed under sub-section (5), or

(ii) to pay the said fee by such number of equal yearly or half-yearly instalments of principal or of principal and interest, as may be approved by the Commissioners, interest in both cases being calculated at a rate not exceeding seven *per cent. per annum* on the amount outstanding.

(7) When the said fee has been paid on or before the date fixed under sub-section (5), or when an agreement has been executed in pursuance of sub-section (6) in respect of any land, the proceedings for the acquisition of land shall be deemed to be abandoned.

(8) If the said fee be not paid on or before the date fixed under sub-section (5), the Collector shall then proceed to acquire the land.

(9) If any sum payable under an agreement executed in pursuance of sub-section (6) be not paid on the date on which it is due, or on such later date as the Commissioners may in their discretion fix in this behalf, so much of the fee fixed by the Commissioners under sub-section (3) as is still unpaid, shall be payable on that date in addition to the said sum.

of 1932.]

(Chapter IV.—Municipal Property and Finance.—
Secs. 100—103.)

(10) At any time after an agreement has been executed in pursuance of clause (2) of sub-section (6) any person may pay off the balance outstanding of the charge created thereby with interest due, if any, at a rate not exceeding seven *per cent. per annum*, up to the date of such payment.

100. When an agreement has been executed by any person in pursuance of sub-section (6) of section 99 in respect of any land, and any money payable in pursuance of that section is not duly paid, the same shall be recoverable by the Commissioners (together with interest up to the date of realization, at a rate not exceeding seven *per cent. per annum*), under the provisions of this Act;

Recovery of money payable in pursuance of section 99.

and, if not so recovered, the Commissioners may, after giving public notice of their intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

101. If any land in respect of which an agreement has been executed, or a payment has been accepted in pursuance of sub-section (6) of section 99 be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

Agreement or payment under section 99 not to bar acquisition under a fresh declaration.

1 of 1894.

Power to purchase, sell, lease or exchange.

102. The Commissioners at a meeting may purchase, take on lease or otherwise acquire any land for the purposes of this Act, and may sell, lease, exchange or otherwise dispose of any land not required for such purposes or which they have acquired for purposes of recoupment.

Power to purchase, lease and sell lands.

Contracts and liabilities.

103. (1) The Commissioners may enter into and perform any contract necessary for the purposes of this Act.

Execution of contracts.

(2) Every contract made on behalf of the Commissioners in respect of any sum exceeding two hundred rupees, or which shall involve a value exceeding two hundred rupees, shall be sanctioned by the Commissioners at a meeting and shall be in writing, and signed

(Chapter IV.—Municipal Property and Finance.—
Sec. 104.)

by at least two of the Commissioners, one of whom shall be the Chairman or Vice-Chairman, and shall be sealed with the common seal of the Commissioners:

'Provided that in the case of a municipality the income of which during the preceding year was two and a half *lakhs* of rupees or more, the provisions of this sub-section shall apply as if the words "five hundred rupees" were substituted for the words "two hundred rupees".

(3) Unless so executed, such contract shall not be binding on the Commissioners.

(4) Where the Indian Registration Act, 1908, or any rule made thereunder, requires or permits any act to be done with reference to a document by a person executing or claiming under the same, and the document has been executed on behalf of the Commissioners or is a document under which they claim, the act may, notwithstanding anything to the contrary contained in the aforesaid enactment or in any rule thereunder, be done by the Chairman, Vice-Chairman, Executive Officer, or Secretary of the municipality or by any other officer of the municipality empowered in this behalf by the Commissioners at a meeting. XVI of 1908.

Personal
liabilities of
Commissioners.

104. (1) A person shall be—

- (i) liable for the loss or waste of any money or other property belonging to or under the control of the Commissioners, if such loss or waste is a direct consequence of his misconduct while Chairman, Vice-Chairman or Commissioner; and
- (ii) liable for any expenditure made from the Municipal Fund contrary to law, where such illegal payment has been authorized by him while Chairman, Vice-Chairman or Commissioner, provided that the ²[Provincial Government] may, ^{3*} * for reasons to be stated in writing, condone any such illegal payment.

(2) In any such case of—

- (i) loss or waste, and
- (ii) misapplication where such misapplication has not been condoned by the ²[Provincial Government]

¹This proviso was added by s. 15 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, *ante*.

³The words "in its discretion" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1932.]

(Chapter IV.—Municipal Property and Finance.—
Secs. 105—107.)

a suit for compensation may be instituted by the Commissioners, in pursuance of a decision at a meeting.

Explanation.—The institution of a case which is found by the court by which the case is heard to be *mala fide* is misconduct within the meaning of clause (i) of sub-section (1).

II.—FINANCIAL PROVISIONS.

The Municipal Fund.

105. There shall be constituted for each municipality a fund to be called the Municipal Fund and there shall be placed to the credit thereof— Municipal Fund.

(a) all sums received by or on behalf of the Commissioners under this Act or otherwise;

* * * *

(c) the balance, if any, standing at the credit of the Municipal Fund of the municipality at the commencement of this Act.

106. Unless the ¹[Provincial Government] otherwise directs, all sums received on account of the Municipal Fund shall be paid into a Government treasury, or into any bank used as a Government treasury in or near to the municipality, and shall be credited to an account to be called the account of the municipality, to which they belong: Custody of
Municipal Fund.

Provided that the Commissioners may invest any moneys not required for immediate use either in Government securities, or in any other form of security which may be approved of by the ²[Provincial Government] or in fixed deposit in the Imperial Bank of India.

107. Except as is otherwise provided in this Act, the Commissioners shall set apart and apply annually out of the Municipal Fund— Priority of pay-
ments on account
of loans, trusts,
establishment
and audit.

(a) firstly, such sum as may be required for the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loans Act, 1914;

(b) secondly, such sum as is required for the discharge of the liabilities and obligations arising from any trust legally imposed upon or accepted by the Commissioners;

(c) thirdly, such sums as they are by this Act required to provide for payment of the

IX of
1914.

¹Clause (b) was omitted, by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²See foot-note 3 on p. 1, *ante*.

*(Chapter IV.—Municipal Property and Finance.—
Sec. 108.)*

salaries and allowances of their own establishment, including such contributions as are referred to in section 70;

- (d) fourthly, such sum as the ¹[Provincial Government] may direct towards the cost of audit, towards the cost of establishment in any office of account or in any treasury and towards the salary and cost of establishment of any assessor or other special officer who may be appointed under this Act.

Purposes to which Municipal Fund is applicable.

108. (1) Subject to the charges specified in section 107, and subject to the payment of other sums, charges and costs necessary for carrying this Act into effect or duly directed or sanctioned for payment from the Municipal Fund by or under any of the provisions of this Act other than the provisions of this section or under any other enactment for the time being in force, the Commissioners at a meeting may apply the Municipal Fund to any of the following purposes within the municipality, that is to say—

- (i) the construction, diversion, maintenance and improvement of streets, tramways, bridges, squares, gardens, tanks, *ghats*, wells, channels, drains, latrines and urinals;
- (ii) the watering and cleansing of streets;
- (iii) lighting;
- (iv) water-supply;
- (v) conservancy and drainage including out-fall works and sewage disposal;
- (vi) the acquiring, keeping and equipping of open spaces for purposes of ventilation, or for the promotion of physical exercise and public recreation;
- (vii) the planting and preservation of trees in streets and public places;
- (viii) the construction, maintenance and improvement of offices and other buildings under the control of the Commissioners or required for municipal purposes;
- (ix) the construction and maintenance of model dwelling houses for the working classes and for the poorer classes;
- (x) the construction, establishment, maintenance and improvement of schools either wholly or by means of grants-in-aid;

¹See foot-note 3 on p. 1 ante.

of 1932.]

(Chapter IV.—*Municipal Property and Finance.*—
Sec. 108.)

- (xi) the training of teachers and the establishment of scholarships;
- (xii) the construction, establishment, maintenance and improvement of hospitals, dispensaries, leper asylums, orphanages, rescue houses, maternity houses, child welfare centres, *sarais*, poor-houses and *dharamsalas*, either wholly or by means of grants-in-aid;
- (xiii) the employment of vaccinators and the promotion of vaccination;
- (xiv) the training and employment of Health Officers, Sanitary Inspectors, ^{1*} medical practitioners, nurses, health visitors and midwives;
- (xv) the prevention of the spread of dangerous diseases;
- (xvi) regulating and abating offensive or dangerous trades and removing noxious vegetation;
- (xvii) the payment of the expenses of indigent inhabitants of the municipality for journeys to and from any hospital established in any part of British India for the treatment of special diseases, and of their subsistence and proper clothing thereat, according to such scale as may be fixed by the Commissioners at a meeting;
- (xviii) the construction, establishment, maintenance and improvement of veterinary dispensaries, and the training and employment of veterinary practitioners;
- (xix) the improvement of the breed of cattle;
- (xx) the payment of rewards for the destruction of noxious animals or diseased or unclaimed dogs;
- (xxi) all acts and things which are necessary for carrying out the purposes of the Prevention of Cruelty to Animals Act, 1890, and the Bengal Cruelty to Animals Act, 1920;
- (xxii) the construction, establishment, maintenance and improvement of municipal markets or slaughter-houses or the taking of markets or slaughter-houses on lease;
- (xxiii) the construction, establishment, maintenance and improvement of municipal dairy farms, grazing grounds and milk depôts and all

XI of
1890.
Ben. Act
of 1920.

¹The word "female" was omitted by s. 16 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

*(Chapter IV.—Municipal Property and Finance.—
Sec. 108.)*

- acts and things that may be necessary for the increase and improvement of the milk-supply;
- (xxiv) the establishment and maintenance of public places for the disposal of the dead;
 - (xxv) the provision and maintenance of and assistance to public libraries and museums;
 - (xxvi) the establishment and maintenance of a fire-brigade;
 - (xxvii) the holding of fairs and industrial, sanitary and health exhibitions;
 - (xxviii) the taking of a census for the purposes of the municipality;
 - (xxix) the survey of buildings and lands and the preparation and maintenance from time to time of survey maps and plans and of other records relating to survey;
 - (xxx) the giving of relief, and the establishment of relief works, in time of famine, scarcity, or any natural calamity;
 - (xxxi) the disposal of unclaimed corpses and the burial or cremation of paupers, and the payment of contributions to charitable institutions for assisting in such disposal, burial or cremation;
 - (xxxii) the payment of compensation to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act;
 - (xxxiii) the payment to an officer or servant of the Commissioners of a bonus for good work done, or of compensation, for loss incurred in the execution of his duty;
 - (xxxiv) the carrying on of propaganda for public health and educational purposes;
 - (xxxv) the re-excavation and repair of private tanks, wells and other sources of water-supply on such terms and conditions as to the Commissioners at a meeting may seem proper; and
 - (xxxvi) all acts and things which are necessary for carrying out the purposes of this Act, or which are likely to promote the safety, health, welfare or convenience of the inhabitants of the municipality, expenditure whereon may be declared by the Commissioners, with the sanction of the ¹[Provincial Government], to be an appropriate charge on the Municipal Fund.

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

*(Chapter IV.—Municipal Property and Finance.—
Sec. 109.)*

(2) The Commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

(3) Nothing in this section shall affect any obligation of the Commissioners arising from a trust legally imposed upon or accepted by them.

109. Notwithstanding anything contained in section 108, the Commissioners at a meeting may, with the sanction of the ¹[Provincial Government]—

Power to Commissioners to incur expenditure beyond the limits of the municipality.

(a) incur expenditure beyond the limits of the municipality—

(i) in the acquisition of land, or

(ii) in the construction, maintenance or repair of works,

for the purpose of obtaining a supply of water or of lighting required for the inhabitants of the municipality, or for establishing places for the disposal of the dead or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits or for drainage works or for dairy-farms and grazing grounds or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said municipality; or

(b) make a contribution towards expenditure incurred by the Commissioners of any other municipality or incurred out of any public funds for any of the purposes mentioned in section 108 or for measures affecting the health, comfort or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality or towards the salary of any officer under any other authority whose services are employed by them; or

(c) create scholarships tenable outside the limits of the municipality:

Provided that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for the Commissioners of a municipality, when with such sanction as aforesaid they have constructed works beyond the limits of the said municipality for

¹See foot-note 3 on p. 1, ante.

(Chapter IV.—Municipal Property and Finance.—
Secs. 110, 111.)

the supply of water or lighting or for drainage as aforesaid,—

- (a) to supply or extend to, or for the benefit of, any person or buildings or lands in any place, whether such place is or is not within the limits of the said municipality, any quantity of water or of gas or electric current not required for the purposes of this Act within the said municipality or the advantages afforded by the system of such drainage works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the Commissioners and such person or the owner or occupier of such buildings or lands; or
- (b) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes, or other works necessary for the purpose of such supply or for the extension of such advantages.

Objects not provided for by this Act.

110. The '[Provincial Government] or any local authority may, at any time with the consent of the Commissioners, transfer to them the management of any institution or the execution of any work not provided for by this Act and it shall thereupon be lawful to the Commissioners to undertake the management of such institution or the execution of such works :

Provided that in every such case the funds necessary for such management or execution shall be placed at their disposal by the '[Provincial Government] or by the local authority concerned.

Restriction on application of moneys received for certain purposes.

111. Notwithstanding anything contained in section 108—

(I) all moneys collected, received or recovered by the Commissioners, whether as taxes ^{2**} or for the execution of works, for or in any respect relating to—

- (i) the water-supply;
- (ii) the lighting system;
- (iii) the cleansing of private latrines, urinals and cess-pools and conservancy;

¹See foot-note 3 on p. 1 ante.

²The words "or fines" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1932.]

*(Chapter IV.—Municipal Property and Finance.—
Secs. 112, 113.)*

shall, after deduction of such proportionate share of the cost of collection and supervision as the Commissioners at a meeting may fix, be applied in defraying the expenses respectively—

- (a) of making, extending or maintaining the water-supply,
- (b) of making, extending or maintaining the lighting system,
- (c) of cleansing latrines, urinals and cesspools and of conservancy,

as the case may be, and in repaying or paying interest on debts incurred in connection with the said purposes:

Provided that the ¹[Provincial Government] may at any time on the request of the Commissioners authorize the expenditure of surplus moneys accrued in respect of any of the services mentioned in sub-clauses (i), (ii) and (iii) of this clause on any other of the services mentioned in those sub-clauses or for general purposes:

Provided also that before authorizing such expenditure the ¹[Provincial Government] shall give an opportunity for the submission of any objection to such expenditure by any rate-payer in the municipality and shall consider such objection; and

(2) money which has been received by the Commissioners on account of any hospital or dispensary, or for any other specified purpose, or directed by them to be applied to the establishment or maintenance of any hospital or dispensary or any other specified purpose shall not, except as provided in clause (1), be expended on any other object.

The Budget.

²112. At least two months before the close of the year, the Commissioners shall have prepared a complete account of the actual and expected receipts and expenditure for that year together with a budget estimate of the income and expenditure of the municipality for the next year.

Annual estimates to be prepared.

113. Copies of the accounts and estimates referred to in ³section 112 and translations thereof in the vernacular of the district shall be lodged in the office of the Commissioners.

Accounts and estimated to be published.

¹See foot-note 3 on p. 1, *ante*.

²Section 112 was substituted for the original section 112 by s. 17 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

³The words "sub-section (1) of" were omitted by s. 18(1), *ibid*.

(Chapter IV.—Municipal Property and Finance.—
Secs. 113A—116.)

During fourteen days after the estimates shall have been so lodged in the said office, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any person paying municipal rates, tolls, fees or taxes to such municipality who may desire to inspect the same.

Any written suggestion which may be deposited in the office of the Commissioners shall be recorded and laid before them for consideration ¹[at the special meeting referred to in sub-section (1) of section 113A.]

Accounts,
estimates and
suggestions to be
laid before the
Commissioners.

113A. (1) The accounts and estimates referred to in section 112, together with any written suggestion deposited under section 113, shall be laid before the Commissioners at a meeting specially convened for the purpose at least one month before the close of the year.

(2) Subject to the provisions of section 116, the Commissioners shall, at such meeting, decide upon the appropriations and the ways and means contained in the budget estimate and, by resolution, sanction a budget which shall be submitted to the ²[Provincial Government] or to such officer or officers as the ³[Provincial Government] may, by order, direct in this behalf.

(3) Subject to the like provisions, the Commissioners may vary or alter from time to time, as circumstances may render desirable, by special resolution, the budget sanctioned under sub-section (2).

The revised
budget.

114. As soon as may be after the first day of October, a revised budget for the year shall be framed and such revised budget shall, so far as may be, be subject to all the provisions applicable to a budget made under ⁴[sections 112, 113 and 113A].

Minimum
closing balance
shown in budget.

115. In framing a budget the Commissioners shall provide for the maintenance of such minimum closing balance (if any) as the ⁵[Provincial Government] may, by order, prescribe, for the services of municipal loans and for carrying out any duty or obligation specifically imposed upon them under this Act or any other enactment.

Budgets of
indebted
boards.

116. Where, in the opinion of the ⁶[Provincial Government], the condition of indebtedness of any municipality is such as to make the control of Government over

¹These words, figures and letter were substituted for the words "at the next meeting" by s. 18(2) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²Section 113A was inserted by s. 19, *ibid*.

³See foot-note 3 on p. 1, *ante*.

⁴These words, figures and letter were substituted for the word and figures "section 112" by s. 20 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

of 1932.]

(Chapter IV.—*Municipal Property and Finance.*—
Secs. 117—119.)

its budget desirable, the ¹[Provincial Government] may, by order declaring that such is the case, direct that the budget of such municipality shall be subject to the sanction of the ¹[Provincial Government] or of the officer to whom it is to be submitted under the provisions of sub-section (2) of ²[section 113A], as the case may be, and that the power to vary or alter the budget under sub-section (3) of ²[section 113A] shall be subject to conditions to be prescribed by rule.

117. (1) Where a budget has been passed the Commissioners shall not incur any expenditure under any of the heads of the budget, other than a head providing for the refund of taxes, in excess of the amount passed under that head without making provision for such excess by the variation or alteration of the budget.

Prohibition of expenditure in excess of budget.

(2) Where any expenditure under any head providing for the refund of taxes is incurred in excess of the amount passed under that head, provision shall be made without delay for such expenditure by the variation or alteration of the budget.

118. If any work is estimated to cost above ten thousand rupees, the ¹[Provincial Government] may require the plans and estimates of such work to be submitted for its approval, or for the approval of any ³[servant of the Crown] before such work is commenced; and may require statements of the progress and completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as it may prescribe, for its approval, or for the approval of such officer.

Power of Provincial Government, if work estimated to cost more than ten thousand rupees.

III.—GENERAL.

Disposal of Municipal Fund and property, on division, union, withdrawal or revision of boundaries of municipalities.

119. When two or more municipalities are united or a municipality is divided or the boundaries of two or more municipalities are revised by a notification under section 8, the Municipal Funds or Fund and all property vested in the Commissioners of the municipalities or municipality concerned shall be consolidated, or

Apportionment and disposal of municipal property upon a division or union of municipalities.

¹See foot-note 3 on p. 1, *ante*.

²This word, figure and letter were substituted for the word and figure "section 112" by s. 21 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

³These words were substituted for the words "officer of Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter IV.—Municipal Property and Finance.—
Secs. 120, 121.)

apportioned in such manner as the ¹[Provincial Government] may direct.

Disposal of
fund and
property on
exclusion of
local area from
municipality or
withdrawal of
municipality
from Act.

120. (1) When a local area is excluded from a municipality by a notification under clause (c) or clause (f) of section 8, the ¹[Provincial Government] shall, after consulting the Commissioners, frame a scheme determining what portion of the balance of the Municipal Fund and other property vested in the Commissioners shall vest in His Majesty ²[for the purposes of the Province] and in what manner the liabilities of the Commissioners shall be apportioned between the Commissioners and the ³[Provincial Government]; and on the publication of such scheme in the ⁴[*Official Gazette*] such property and liability shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification under clause (b) of section 8, the balance of the Municipal Fund and all other property at the time of the publication of the notification vested in the Commissioners shall vest in His Majesty ⁵[for the purposes of the Province] and the liabilities of the Commissioners shall be transferred to the ⁶[Provincial Government].

(3) *Omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.*

Audit.

Audit of
accounts.

121. (1) The accounts of Municipal Funds shall be audited at such times as the ¹[Provincial Government] may prescribe.

(2) The appointment of auditors of the accounts of Municipal Funds shall be made by the ¹[Provincial Government] and such auditors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(3) The ¹[Provincial Government] may direct that the whole or any portion of the cost of audit as determined by it including the salary of the auditor, shall be paid from the Municipal Fund within such time as it may fix.

Act XLV
of 1880.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "the benefit of the inhabitants of the local area", by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were substituted for the words "Secretary of State for India in Council", *ibid*.

⁴See foot-note 1 on p. 6, *ante*.

⁵These words were inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1932.]

(Chapter IV.—*Municipal Property and Finance.*—
Chapter V.—*Municipal Taxation.*—Secs. 122, 123.)

Rules as to the Municipal Fund and property.

122. The '[Provincial Government] may make rules— Power to make rules.

- (a) to regulate the application of the Municipal Fund to the purposes to which it is applicable;
- (b) to regulate the keeping, checking and publication of accounts and the periodical audit thereof;
- (c) to regulate the preparation of the budget estimate and the expenditure of money for purposes provided therein;
- (d) to provide for the retention of adequate working and closing balances;
- (e) to provide for the preparation of plans and estimates for works referred to in section 118 to be partly or wholly constructed at the expense of the Commissioners, and to determine the persons by whom, and the conditions subject to which, such plans and estimates are to be sanctioned;
- (f) to regulate the preparation, submission and publication of returns, statements and reports by the Commissioners, and to prescribe registers and forms; and
- (g) to determine the persons by whom orders for payment of money from the Municipal Fund may be signed, how such payments shall be made and by whom receipts may be given.

CHAPTER V.

Municipal Taxation.

Imposition of taxes.

123. (1) The Commissioners may, from time to time, at a meeting convened expressly for the purpose, subject to the provisions of this Act, impose within the limits of the municipality the following rates, taxes, tolls and fees, or any of them:— Power to impose taxes.

- (a) a rate on holdings situated within the municipality assessed on their annual value;
- (b) a water-rate on the annual value of holdings;

¹See foot-note 3 on p. 1, ante.

(Chapter V.—Municipal Taxation.—Sec. 124.)

- (c) a lighting-rate on the annual value of holdings;
- (d) a conservancy, latrine and drainage rate (hereafter known as the conservancy-rate) on the annual value of holdings;
- (e) a tax on carriages and on horses and other animals mentioned in Schedule III;
- (f) a tax on the trades, professions and callings specified in Schedule IV at such rates as may be fixed by the Commissioners within the maximum rates fixed in the said schedule;
- (g) a fee on the registration of carts;
- (h) tolls on ferries and on bridges;
- (i) a fee on vessels moored within the limits of the municipality at *ghats* or landing places constructed and maintained by the Commissioners; and
- (j) any other tax which the Commissioners are empowered to impose under any law for the time being in force.

(2) The Commissioners may, from time to time, at a meeting convened as aforesaid, and in accordance with a scale of fees to be approved by the ¹[Provincial Government], charge a fee in respect of the issue and renewal of any license which may be granted by them under this Act and in respect of which no fee or tax is leviable under sub-section (1).

Restrictions on
the imposition
of the tax on
holdings.

124. (1) The rate on holdings shall not be imposed—

- (a) in any municipality included in Schedule V at a rate exceeding fifteen *per centum*, or in any other municipality at a rate exceeding ten *per centum*, on the annual value of holdings;
- (b) on any holding which is used exclusively as a place of worship to which the public have the right of free access without payment or as a mortuary or which is duly registered as a public burial or burning ground under this Act.

(2) The Commissioners at a meeting may, either wholly or partially, exempt from the rate on holdings any holding which is used exclusively for purposes of public charity.

(3) Where the aggregate annual value of all the holdings held by any one owner within a municipality

¹See foot-note 3 on p. 1, *ante*.

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(Chapter V.—Municipal Taxation.—Sec. 125.)

does not exceed six rupees, the rate on holdings shall not be imposed on any of the holdings of the said owner.

(4) The ¹[Provincial Government] may, on the recommendation of the Commissioners, at any time, include in, or exclude from, Schedule V the name of any municipality.

- 125. (1) The imposition of a water-rate or of a lighting-rate shall be subject to the following restrictions, namely,—

Restrictions on the imposition of the water and lighting rates.

(a) that the rate shall be imposed only on holding within an area for the supply of water to which or for the lighting of which, as the case may be, a scheme involving the laying of pipes, wires, cables or other similar apparatus has been sanctioned by the ¹[Provincial Government];

Provided that where the Commissioners—

(i) distribute water by means of water-carts or other like agency or provide a water-supply, approved by the ¹[Provincial Government], by means of wells or tanks or other reservoirs, or

(ii) provide acetylene lamps, or such other means of lighting as may be approved by the ¹[Provincial Government];

the Commissioners at a meeting may impose in case (i) a water-rate and in case (ii) a lighting-rate under such conditions and limitations as may be prescribed by the ¹[Provincial Government];

(b) that the rate shall not be imposed on land used exclusively for purposes of agriculture, or on any holding consisting only of tanks, or, in the case of the water-rate on any holding, no part of which is within a radius, to be fixed by Commissioners at a meeting, from the nearest standpipe or other supply of water available to the public;

(c) that the water-rate shall not be levied at more than seven-and-a-half *per centum*, and the lighting-rate at more than three *per centum*, on the annual value of holdings;

(d) that the rate shall not be leviable until a supply of water has been provided in the area to be

¹See foot-note 3 on p. 1, ante.

(Chapter V.—Municipal Taxation.—Sec. 126.)

supplied, or until the lamps in the area to be lighted have been lighted, as the case may be.

(2) Nothing in this section shall prevent the Commissioners at a meeting from making any special arrangement consistent with this Act for a supply of water or electric current or gas to persons residing beyond the radius fixed by the Commissioners at a meeting and for the levy of charges for the same.

(3) With the sanction of the Commissioners at a meeting the amount of the water-rate may vary with the distance of holdings from the nearest standpipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.

Restrictions on
the imposition of
the conservancy
rate.

126. (1) The imposition of the conservancy-rate shall be subject to the following restrictions, namely,—

- (a) that where there is no underground sewerage system the rate on any jail, reformatory or lunatic asylum in which an establishment is maintained for the cleansing of latrines, urinals and cesspools therein shall not exceed such proportion of the rate in force for the municipality as the ¹[Provincial Government] may fix;
- (b) that the rate shall not be leviable in any area until the Commissioners have made provision for the cleansing of private latrines, urinals and cesspools within such area;
- (c) that the rate shall not be levied at more than seven *per centum* on the annual value of any holding.

(2) The Commissioners at a meeting at their discretion may compound for any period not exceeding one year with the person liable to pay the rate on any railway premises or on any premises used as a mill, factory, dockyard, workshop, *coolie*-depot, school, hospital, market, court-house or other similar place for a certain sum to be paid by such person in lieu of the rate or, in the case of such premises or places may in lieu of levying the rate on the annual value of the holding levy it at a certain amount per head, to be fixed by the Commissioners at a meeting, on the number of persons living within or habitually resorting to such premises or places.

(3) Notwithstanding anything contained in this section any person otherwise liable to pay the rate on any

¹See foot-note 3 on p. 1, *ante*.

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(Chapter V.—Municipal Taxation.—Sec. 127.)

railway premises or on any premises used as a mill, factory, dockyard, workshop, *coolly*-depot, school, hospital, market, court-house or other similar place may, from year to year by application to the Commissioners, require that the rate shall be levied on such premises at a percentage not exceeding one-fourth of the percentage fixed under sub-section (1), provided that he proves to the satisfaction of the Commissioners that all latrines and urinals on such premises are served, cleansed and kept in a satisfactory condition by an establishment maintained at his own cost, and that the sewage therefrom undergoes such treatment at his cost, by means of septic tanks or other similar works constructed to the satisfaction of the Commissioners, as to render the effluent innocuous and inoffensive and capable of being discharged into the municipal drains, and the Commissioners shall levy such rate accordingly:

¹Provided that the exemption from paying the full rate conferred under this sub-section—

- (i) shall not apply where the Commissioners have, before the conservancy arrangements referred to in this sub-section were made, provided an underground sewerage system which is, in the opinion of the ²[Provincial Government], of sufficient capacity and in every respect adequate for the efficient treatment and disposal of all sewage in the area served by it;
- (ii) shall, where the Commissioners have, after the conservancy arrangements referred to in this sub-section were made, provided an underground sewerage system which, in the opinion of the ²[Provincial Government], fulfils the requirements specified in clause (i), terminate after a term of years to be determined by the ²[Provincial Government] in each case;
- (iii) may, subject to the approval of the ²[Provincial Government], be granted by the Commissioners at a meeting to a mill, factory, dockyard, workshop, *coolly*-depot, school, hospital, market, court-house or other similar place which contributes or has contributed towards the construction of an underground sewerage system.

127. The Commissioners may, for the purposes of conservancy, or for the levy of the conservancy-rate, by a notice in writing, require the owner or occupier

Power to call for list of occupants of holdings.

¹This proviso was substituted for the original proviso by s. 22 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, *ante*.

[Ben. Act XV]

(Chapter V.—Municipal Taxation.—Secs. 128—130.)

of any holding to furnish, within a time to be specified in the notice, a true and correct list of the number of persons living within, or habitually resorting to, such holding.

Assessment of rates on the annual value of holdings.

Annual value of holdings.

128. (1) The annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonably be expected to let.

(2) If such gross annual rental cannot, in the opinion of the assessor, be easily estimated or ascertained, the annual value of such holding shall be deemed to be an amount which may be equal to, but may not exceed, seven-and-half *per centum* on the value of the building or buildings on such holding at the time of such assessment *plus* a reasonable ground rent for the land comprised in the holding:

Provided that, where the value '[of the building or buildings on the holding] exceeds one *lakh* of rupees, the percentage on the annual value to be levied in respect of so much of the value as is excess of one *lakh* of rupees shall not exceed one-fourth of the percentage determined by the Commissioners under section 135.

(3) The value of any machinery or furniture which may be on a holding shall not be taken into consideration in estimating the annual value of such holding under this section.

Power of Commissioners to decide questions arising out of the definition of "holding".

129. For the purpose of, and subject to, clause (21) of section 3—

(a) if a question arises whether any land is included within one holding, the decision thereof shall rest with the Commissioners at a meeting;

(b) the Commissioners at a meeting shall determine what class of ownership shall be accepted as the test for determining whether lands within a municipality are held under one title or agreement.

Assessment in case of land or building subdivided into separate shares.

130. If, during the currency of any period prescribed by sub-section (1) of section 137, the ownership of any land or building, or portion thereof is subdivided into separate shares, the Commissioners may on the application of any of the co-owners, after giving the other co-owners an opportunity to be heard, divide the

¹These words were substituted for the words "so ascertained" by s. 23 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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assessment of such land, building or portion in the following manner, namely:—

- (i) if the ownership be subdivided into two or more shares without separate allotments, or if as the result of such subdivision there is a separate allotment of such land, building or portion into two or more separate portions, which are not entirely independent, the Commissioners may, if they think fit, apportion the assessment among the shareholders according to the value of their respective shares without assigning any separate number;
- (ii) if, as the result of such subdivision, there are separate allotments of such land, building or portion and, if such allotments are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act or of any rules or by-laws made thereunder relating to buildings, the Commissioners may, if they think fit, assess such portions separately after assigning to them separate numbers:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased;

- (iii) if such separated portions of such land, building or portion are, or are made, entirely independent and capable of separate enjoyment in conformity with the provisions of this Act or of any rules or by-laws made thereunder, relating to buildings, the Commissioners shall assess each portion separately by assigning a separate number thereto:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased:

Provided also that such apportionment or separation of the numbers and assessment, as the case may be, shall remain in force and the rate shall be levied accordingly until the expiration of the said period.

131. If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Commissioners shall assess them on amalgamation after assigning to them one or more numbers, as the case may be:

Assessment in case of land or building being amalgamated.

Provided that no assessment on amalgamation of premises shall be made by the Commissioners unless there is a cause for the revaluation of any such premises

(Chapter V.—Municipal Taxation.—Secs. 132—135.)

except on an application being made to them by the owner or owners thereof in which case such assessment, if made, shall remain in force for the unexpired period of valuation:

Provided also that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises amalgamated.

Taxes by whom payable.

132. Except as otherwise provided by this Act, any rate which is assessed on the annual value of a holding shall be payable by the owner of the holding.

Preparation of valuation list.

133. When it has been decided to impose any rate to be assessed on the annual value of holdings, the assessor, after making such inquiries as may be necessary shall, determine the annual value of all holdings within the municipality in the manner provided in this chapter, and shall enter such value in a valuation list.

Returns required for ascertaining annual value.

134. The assessor, in order to prepare the valuation list, may, whenever he thinks fit, by notice require the owners or occupiers of all holdings to furnish him within one week with true and correct returns of the rent or annual value thereof and a true and correct description of the holdings containing such particulars as the assessor may direct, and the assessor, or any person authorized by him in writing in that behalf, may enter, inspect and measure any such holding at any time between sunrise and sunset:

Provided that at least twenty-four hours' previous notice of the intention to enter, inspect and measure any holding shall be given to the occupier thereof, unless he waives his right to such notice.

Determination of percentage of rate on holdings.

135. Subject to the provisions of this Act, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which any rate on the annual value of holdings shall be levied, and the percentage so fixed shall remain in force until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place, the first rate or rates shall be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Commissioners at a meeting:

Provided further that, where the amount standing to the credit of the Commissioners in the Municipal Fund in any municipality is, in the opinion of the

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¹[Provincial Government], insufficient to meet the liabilities of the Commissioners, no decrease shall be made in the percentage of any rate levied by them without the previous sanction of the ¹[Provincial Government.]

136. As soon as possible after the percentage at which the rate or rates shall be levied for the next year has been determined under section 135, the Commissioners shall cause to be prepared * * * an assessment list, which shall contain the following particulars and any others which the Commissioners may think proper to include:—

Preparation of assessment list.

- (a) the name of the street in which the holding is situated;
- (b) the number of the holding on the register;
- (c) a description of the holding;
- (d) the annual value of the holding;
- (e) the name of the owner * * *;
- (f) the amount of rate payable for the year (each rate to be shown separately);
- (g) the amount of quarterly instalment;
- (h) if the holding is exempted from assessment, a note to that effect.

137. (1) A new valuation * * list shall unless otherwise ordered by the ¹[Provincial Government] be prepared, in the same manner as the ⁵[original list,] once in every five years.

Revision and duration of the list.

(2) Subject to any alteration or amendment made under section 138 and to the result of any application under section 148 every valuation and assessment entered in a valuation or assessment list shall be valid from the date on which the list takes effect in the municipality and until the first day of April next following the preparation of a new list.

138. (1) The Commissioners at a meeting may, at any term, direct alteration or amendment of the assessment list—

Amendment and alteration of list.

- (a) by entering therein the name of any person or any property which in their opinion ought to have been entered, or any property which

¹See foot-note 3 on p. 1, *ante*.

²The words "by the assessor" were omitted by s. 24(1) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

³The words "and occupier" were omitted by s. 24(2), *ibid*.

⁴The words "and assessment" were omitted by s. 25(1) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

⁵These words were substituted for the words "original lists" by s. 25 (2) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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has become liable to taxation after the authentication of the assessment list under section 147; or

- (b) by substituting therein for the name of the owner ¹* * of any holding the name of any other person who has succeeded by transfer or otherwise to the ownership ¹* * of the holding; or
- (c) by altering the valuation of or assessment on any holding which in their opinion has been incorrectly valued or assessed; or
- (d) by re-valuing or re-assessing any holding, the value of which has been increased by additions or alterations to buildings; or
- (e) where the percentage on the annual value at which any rate is to be levied has been altered by the Commissioners under the provisions of section 135, by making a corresponding alteration in the amount of rate payable in each case; or
- (f) by reducing, upon the application of the owner ²* * the valuation of any holding which has been wholly or partly demolished or destroyed, or the value of which has been diminished from any cause beyond the control of the owner ²* * the operation of which could not have been prevented with due precaution; or
- (g) by correcting any clerical or arithmetical error.

(2) The Commissioners shall give at least one month's notice to any person interested of any alteration which the Commissioners propose to make under clauses (a), (b), (c) or (d) of sub-section (1) and of the date on which the alteration will be made.

(3) The provisions of sections 148 to 151 applicable to objections shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any application made under clause (f) of sub-section (1).

(4) Every alteration made under sub-section (1) shall be signed by the Chairman, ³[Vice-Chairman or Secretary,] and subject to the result of an application under section 148, shall take effect from the beginning

¹The words "or occupier" and "or occupation" were omitted by s. 26(1)(a) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²The words "or occupier" were omitted by s. 26(1)(b), *ibid*.

³These words were substituted for the words "or Vice-Chairman" by s. 26 (2) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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of the quarter next following that in which the alteration was made, but the Commissioners by such alteration shall not be deemed to have made a new or revised assessment list.

139. An entry in an assessment list shall be conclusive proof—

Conclusiveness of entries in list.

- (a) for any purpose connected with a rate or rates to which the list refers, of the amount leviable in respect of any holding during the period to which the list relates, and
- (b) for the purpose of assessing any other municipal rate, of the annual value of any holding during the said period.

140. (1) If any house belongs to one owner and the land on which it stands as also the adjacent land if any, usually occupied therewith, belongs to another, the Commissioners may treat such house and land as a single holding and assess them to rates accordingly.

Power to assess building and lands together where land is let on a building lease.

(2) The total amount of the rate or rates shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate or rates so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

(3) In case of disputes the Commissioners shall determine what amount the owners of the house and of the land shall pay respectively.

141. Whenever, from the circumstances of the case, the levy of a rate or rates on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the Commissioners at a meeting may reduce the amount payable on account of such holding, or may remit the same:

Power to reduce rates in cases of excessive hardship.

Provided that such reduction or remission shall not, unless renewed by the Commissioners at a meeting, have effect for more than one year.

142. (1) When any holding has been unoccupied and unproductive of rent for sixty or more consecutive days the Commissioners shall remit, and if the rate or rates have been paid, shall refund three-quarters of the amount due on account of such period:

Remission or refund on account of vacant holdings.

Provided that—

- (i) the person liable to pay the rate or rates or his agent has given to the Commissioners notice in writing of the vacancy and that the application for remission or refund is made

[Ben. Act XV]

(Chapter V.—Municipal Taxation.—Secs. 143, 144.)

within six months from the date on which such notice is delivered at the office of the Commissioners; and

- (ii) the amount of rate or rates to be remitted or refunded shall not be calculated from any date prior to the date of delivery of such notice.

(2) When any such holding as aforesaid consists of separate tenements, one or more of which has, or have been unoccupied and unproductive of rent for any period of not less than sixty consecutive days, the Commissioners may, subject to the proviso to sub-section (1), remit such portion (if any) of the rate or rates, not exceeding three-fourths, as they may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

(4) For the purposes of this section—

- (i) neither the presence of a caretaker nor the mere storing in one-room of an otherwise unoccupied dwelling-house of the furniture habitually used in it shall constitute occupation of the house, unless such house is maintained as a pleasure resort or as a temporary place of residence for a person ordinarily residing elsewhere, and
- (ii) a house shall be deemed productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

Owner to give notice of re-occupation.

143. Every person who is the owner of any holding for which a remission or refund of the rate or rates has been made under section 142, shall give notice of the re-occupation of such holding within ten days of such re-occupation.

Notice to be given to the Chairman of all transfers of title of persons primarily liable to payment of rates.

144. (1) Whenever the title to or over any land or building of any person primarily liable for the payment of rates on such property is transferred, both the transferor and the transferee shall, within three months of the registration of the deed of transfer, if it be registered, or if it be not registered, within three months of its execution, or, if no instrument be executed, within three months of the actual transfer, give notice in writing of such transfer to the Chairman.

(2) Every person primarily liable for the payment of rates on any land or building, who transfers his title to or over such property, without giving notice of such

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transfer to the Chairman, as aforesaid, shall unless the Commissioners, on grounds of hardship arising out of special circumstances, otherwise direct, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all such rates from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the municipal books.

(3) Nothing in this section shall be held to diminish the liability of the transferee for the said rates or to affect the prior claim of the Commissioners for the recovery of the rates due thereupon and the Commissioners may revise the assessment list as against the transferee with effect from the date on which they are satisfied that the transfer was made.

¹144A. Every person succeeding to any land or building by inheritance shall within three months from the date of such succession give notice in writing of such succession to the Chairman and the provisions of sub-section (3) of section 144 shall apply *mutatis mutandis* to such a case.

Persons succeeding to lands or buildings to give notice to the Chairman.

General provisions relating to assessment.

145. (1) The ²[Provincial Government] shall prepare a list of persons qualified in its opinion to be appointed as municipal assessors.

Appointment of assessors of municipal rates.

(2) When a new valuation ³* * list is to be prepared for any municipality the Commissioners at a meeting shall appoint from the list referred to in sub-section (1) a person ⁴* * * as an assessor for the purposes of this chapter, on such salary and with such establishment as may be fixed by them with the approval of the ⁵[Provincial Government].

(3) Notwithstanding anything in this section the ⁶[Provincial Government] may, ⁷* * at the request of the Commissioners at a meeting, appoint, or authorise the Commissioners at a meeting to appoint, any person or persons approved by the ⁸[Provincial Government] with or without salary to prepare the valuation ⁹* * list of such municipality.

¹Section 144A was inserted by s. 27 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, *ante*.

³The words "and assessment" were omitted by s. 28 (1) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

⁴The words "conversant with local conditions" were omitted by s. 28 (2) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

⁵The words "in its discretion" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter V.—Municipal Taxation.—Secs. 146—148.)

Appointment of
assessor by
Provincial
Government in
case of default.

146. (1) If the Commissioners fail to comply with the provisions of section 145 within such period as the ¹[Provincial Government] may fix, the ¹[Provincial Government] may appoint for such period as may be necessary a suitable person from among the persons included in the said list to prepare the valuation ² * list of such municipality.

(2) If there is no person for the time being available for appointment as assessor from among the persons included in the list referred to in sub-section (1) of section 145, the Commissioners at a meeting, or in case of default by the Commissioners, the ¹[Provincial Government], may appoint any person approved by the ¹[Provincial Government] on such salary, for such period, and with such establishment as the Commissioners with the approval of the ¹[Provincial Government], or the ¹[Provincial Government] in the case of default, may determine.

(3) An assessor appointed by the ¹[Provincial Government] under this section shall be paid monthly out of the Municipal Fund such salary and cost of establishment as may be fixed by the ¹[Provincial Government].

Publication of
notice of
assessments.

147. (1) When the assessment list mentioned in section 136 has been prepared or revised, the Chairman shall sign the same and shall cause it to be deposited in the office of the Commissioners, and shall give public notice of the place where the list may be inspected.

(2) In all cases in which any property is for the first time assessed or the assessment is increased, the Chairman shall also give notice thereof to the owner or occupier of the property, if known.

Application for
review.

148. (1) Any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding, or who disputes his occupation of any holding, or his liability to be assessed, may apply to the Commissioners to review the amount of assessment or valuation or to exempt him from the assessment of rate.

(2) No such application shall be received after one month from the date of publication of the notice required under sub-section (1) of section 147, or the service of the notice required under sub-section (2) of that section or after the expiration of one month from

¹See foot-note 3 on p. 1, ante.

²The words "and assessment" were omitted by s. 29 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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(Chapter V.—Municipal Taxation.—Secs. 149—151.)

the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire.

1* * *

149. (1) Every application presented under section 148 shall be heard and determined by a committee consisting of the Chairman, and ²[not less than two nor more than four] Commissioners who shall be appointed by the Commissioners at a meeting and shall not, in case of a municipality which is divided into wards under section 20, be Commissioners of the ward from which the application is made.

Hearing and determination of applications by committee.

(2) The committee shall give notice to the applicant of the time and place at which his application will be heard, and after taking such evidence and making such inquiry as it may deem necessary, in the presence of the objector or his agent if he appears, pass such orders as it thinks fit in respect of the application.

³(3) The quorum shall be fixed by the Commissioners at a meeting.

³(4) The decision in such cases of the Committee, or of a majority of the members present, shall be final.

³(5) In case of equality of votes, the person presiding shall have a second or casting vote.

150. No objection shall be taken to any assessment or valuation in any other manner than in this Act is provided.

Assessment to be questioned only under Act.

151. (1) When an objection to an assessment or valuation has been made under section 148 the rate shall, pending the final determination of the objection, be paid on the previous assessment or valuation.

Payment of rate how affected by objections to valuation.

(2) If, when the objection has been finally determined, the previous assessment or valuation is altered, then—

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Commissioners under this Act; and

(b) any deficiency shall be deemed to be an arrear of the rate and recoverable as such.

¹Sub-section (3) was omitted by s. 30 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²These words were substituted for the word "two" by s. 31 (1), *ibid.*

³Sub-sections (3), (4) and (5) were substituted for the original sub-section (3) by s. 31 (2), *ibid.*

*(Chapter V.—Municipal Taxation.—Secs. 152—155.)**Recovery of taxes.*

Office hours for
payment of taxes.

152. By notification to be posted up in their office, the Commissioners shall declare at what hours of each day (not being a Sunday or other recognized holiday) the office shall be open for the receipt of money and the transaction of business.

Amount of tax
payable, and tax
to be paid in
advance.

153. (1) Unless the amount entered in such lists is subsequently altered by the Commissioners as provided in this Act, the amount entered in the lists the notice relating to which is published under section 147, shall be deemed to be the amount due from any person on account of any rate on the annual value of holdings. In case of such subsequent alteration the amount to which the assessment or rating is so altered shall be deemed to be the amount due.

(2) Such rate shall be payable in quarterly instalments and every such instalment shall be deemed to be due on the first day of the quarter in respect of which it is payable.

Receipts to be
given.

154. For all sums paid on account of any tax, toll, fee or rate under this Act a receipt stating the amount and the tax, toll, fee or rate on account of which it is paid shall be given, signed by the tax-collector, or by some other officer authorized by the Commissioners to grant such receipts.

Bill and notice
of demand to be
presented.

155. (1) Within three months after any sum has become due on account of any tax, toll, fee or rate the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax, toll, fee or rate on account of which the charge is made.

(2) If the amount mentioned in such bill is not paid on presentation thereof, a notice of demand in the prescribed form with copy of the bill appended thereto, shall be served on the person liable to pay the same. Such notice of demand may be served at any time after the presentation of the bill:

Provided that no charge shall be made in respect of the service of such notice.

(3) Such notice shall be signed by the Chairman, Vice-Chairman or an officer authorized by the Commissioners in that behalf, and shall be served by a person authorized to receive payment.

of 1932.]

(Chapter V.—Municipal Taxation.—Secs. 156, 157.)

156. If any person, after service upon him of such bill and notice, does not, within fifteen days of the service of such notice, pay the sum due, either to the Commissioners at their office, or to some person authorized by them to receive the money, or show to the Commissioners sufficient cause for not paying the same, the amount of the arrear due, with costs according to the prescribed scale of fees, may, at any time within one year after the date of service of the said notice, be levied by distress and sale of any movable property belonging to the defaulter, except ploughs, plough-cattle, tools or implements of agriculture or trade, wherever found, or of any movable property belonging to any other person, subject to the same exceptions, which may be found within the holding in respect of which such defaulter is liable to such tax, toll, fee or rate:

Levy by distress on failure to pay tax, toll, fee or rate.

Provided that, when the holding in respect of which the default is committed is a place of business and the movable property distrained is shown to the satisfaction of the Commissioners to have been left there for repairs or safe custody in the ordinary course of business, it shall be released:

Provided also that, if the said property or any part thereof belongs to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

157. (1) Every warrant of distress and sale under section 156 shall be issued by the Commissioners, and shall be in the prescribed form. Distress how to be made.

(2) When a warrant of distress is issued it shall not be discharged before it is executed except upon payment of the sum due together with one-fourth of the costs referred to in section 156.

(3) Distress shall be made by actual seizure of movable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

(4) Such officer shall make in the presence of two witnesses an inventory of all movable property seized under the warrant and shall give not less than ten days' previous notice of the sale, and of the time and place thereof by beat of drum, in the municipality or ward in which the property is seized, and by serving on the defaulter a notice in the prescribed form:

Provided that if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

(Chapter V.—Municipal Taxation.—Secs. 158—161.)

Officer may
break open
door.

158. The officer charged with the execution of the warrant may, under the special order of the Chairman or Vice-Chairman, between sunrise and sunset, break open any outer or inner door or window of a house, in order to make the distress, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that he shall not enter or break open the door of any room appropriated to women, except after reasonable notice and opportunity given to enable the women to remove to some part of the premises where their privacy may be preserved.

Sale how to be
conducted.

159. (1) If the sum due be not paid with costs before the time fixed for the sale, or if the warrant be not discharged or suspended by the Commissioners, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

(2) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction.

(3) The tax-collector or other officer authorized by the Commissioners in that behalf shall make a return of all such sales to the Commissioners in the prescribed form.

Sale of property
beyond limits of
municipality.

160. If the Commissioners are unable to recover under section 159 the sum due with costs, the Magistrate may, on the application of the Commissioners, issue his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within Bengal. and such other Magistrate shall endorse the warrant so issued, and cause it to be executed and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Commissioners.

Commissioners
to keep account
of distresses and
sales.

161. The Commissioners shall cause a regular account to be kept of all distresses levied, and sales made, for the recovery of taxes, tolls, fees and rates under this Act.

of 1932.]

(Chapter V.—Municipal Taxation.—Secs. 162—167.)

162. Instead of proceeding by distress and sale, or in case of failure to realize thereby the whole or any part of any tax, toll, fee or rate the Commissioners may sue the person liable to pay the same in any court of competent jurisdiction.

Power to Commissioners to bring suits in place of distress.

163. The Commissioners may order to be struck off the books the amount of any tax, toll, fee, rate or other money due under this Act which may appear to them to be irrecoverable.

Irrecoverable taxes.

164. All Commissioners, municipal officers and servants, and all *chankidars*, constables and other officers of police are prohibited from purchasing any property at any sale made under this chapter.

Certain persons prohibited from purchasing at sales.

Recovery in special cases.

165. If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner is not resident within the municipality or the place of abode of such owner is unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Recovery from occupier of tax due from non-resident owner and deduction from rent.

Provided that no arrear of rate shall be so recovered from the occupier of any holding if it has remained due from the owner thereof for more than one year or if it is due on account of any period during which such occupier was not in occupation of such holding:

Provided also that if any such holding is occupied in severalty by more than one person, the sum recovered from any one of such persons shall not exceed such amount as shall bear to the total sum due the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of the holding.

166. The purchaser of any holding or part of a holding in respect of which any sum is due at the time of purchase on account of any rate under this Act shall, subject to the provision of sub-section (2) of section 144, be liable for the said sum.

Liability of purchaser for vendor's share of rate.

167. The sum due on account of any rate under this Act from any person in respect of any holding shall, subject to the prior payment of the land revenue (if any) due to the Government or of the rent (if any) due to a landlord under the Bengal Tenancy Act, 1885, thereupon, be a first charge upon the said holding.

Rate to be a charge on holdings.

(Chapter V.—Municipal Taxation.—Sec. 168.)

The tax on carriages, and on horses and other animals.

Tax on carriages,
horses and other
animals.

168. (1) When it has been determined that a tax on carriages, and on horses and other animals mentioned in Schedule III shall be imposed, the Commissioners at a meeting shall, subject to the provisions of section 169, make an order that the owner of every carriage, and every horse and other animals of the kind mentioned in the said schedule, which is kept or is used in the ordinary course of business within, or which is let for hire within or without the municipality, and is used in the ordinary course of business within it, shall pay the tax at the rate fixed under sub-section (2) in respect of such carriage, horse or other animal and they shall cause such order to be published in the manner prescribed.

(2) Such order shall be published at least one month before the beginning of the half-year in which such tax will first take effect; and shall specify at what rates, not exceeding the rates given in the said schedule, such tax shall be levied.

(3) Such tax shall not be imposed on—

- (a) horses or ponies belonging to officers doing regimental duty at the rate of one animal for each officer;
- (b) horses and other means of conveyance exempt from any municipal tax under section 34 of the Auxiliary Force Act, 1920, or under section 16 of the Indian Territorial Force Act, 1920;
- (c) carriages or animals '[belonging to the Crown] or to the Commissioners or for keeping which for the execution of their duty an allowance is made '[by the Central or any Provincial Government] or by the Commissioners to any of their officers;
- (d) animals used by, or exclusively for the purposes of, any regiment;
- (e) horses or ponies used by police-officers, at the rate of not more than one for each officer;
- (f) carriages the wheels of which do not exceed twenty-four inches in diameter; and
- (g) carriages or animals kept for sale by any *bona fide* dealer in such carriages or animals, and not used for any other purpose.

XLIX c
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of 1920.

¹These words were substituted for the words "belonging to Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were substituted for the words "by the Government", *ibid.*

of 1932.]

*(Chapter V.—Municipal Taxation.—
Secs. 169—173.)*

169. In making an order under section 168 or by a subsequent order, the Commissioners at a meeting may exempt from the tax, imposed under section 168, any carriage or class of carriages mentioned in Schedule III.

Powers to exempt carriages or class of carriages from taxation.

170. The order of the Commissioners imposing a tax under section 168 shall continue in force until rescinded and the tax shall be levied at the rates specified in the order published as aforesaid, unless and until the Commissioners at a meeting, held not less than fifteen days before the end of the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

Duration of tax.

171. (1) In any municipality in which a tax has been imposed under section 168 the owner of every carriage, horse, and other animal mentioned in Schedule III shall, within the first month of each half-year, forward to the Commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax, for which he is bound to take out a license.

Half-yearly statement of liability and payment of tax.

(2) Such owner shall, at the same time, pay to the Commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified in any order for the time being in force under section 168.

172. If any person acquires possession, at any time after the commencement of any half-year, of any carriage, horse or other animal mentioned in Schedule III, in respect of which no license has been given for such half-year, he shall forward a statement as required under section 171 within one month of the date on which he may have acquired possession thereof and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

Proportionate tax on carriages, etc., acquired during the half-year.

173. (1) On receiving the amount of the tax due the Commissioners, or some person authorised by them in that behalf, shall give to the person paying the same a license for the several carriages, horses and other animals for the period in respect of which the amount is received.

Grant of license on payment of tax.

(2) Such license shall be for the current half-year and no longer.

*(Chapter V.—Municipal Taxation.—
Secs. 174—179.)*

Liability in
absence of owner.

174. Whenever the owner of any carriage, horse or other animal who is liable to pay the said tax is not resident within the limits of the municipality to the Commissioners of which the tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall pay the tax and take out a license for the same.

Carriages, etc.,
not to be kept
without a
license.

175. No person shall keep, or be in possession of any carriage, horse or other animal without the license required under this Act:

Provided that no carriage which has not been brought into use or which is so damaged as in the opinion of the Commissioners to be unfit for use shall be liable to the tax.

Composition
with livery
stable-keepers.

176. The Commissioners at their discretion may compound for any period not exceeding one year with livery stable-keepers and other persons keeping carriages, horses or other animals for hire for a certain sum to be paid for the carriages, horses or other animals so kept by such persons, in lieu of the tax at the rates specified in any order made by the Commissioners under sections 168 and 170.

Preparation of
list of persons
licensed.

177. The Commissioners shall, from time to time, cause to be prepared and entered in a book, to be kept by them and to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year a license has been given, and of the carriages, horses and other animals in respect of which they have paid the tax.

Power to
inspect stable,
etc., and to
summon persons
liable to
the payment of
the tax.

178. (1) The Commissioners, or any person authorized by them in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable or coach house, or any place wherein may have reason to believe that there is any carriage, horse or other animal liable to the tax, for which a license has not been taken out.

(2) The Commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

Refund of tax
in certain cases.

179. On proof being given to the satisfaction of the Commissioners that a carriage, horse or other animal for which a license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the

of 1932.]

(Chapter V.—Municipal Taxation.—Secs. 180—183.)

Commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Commissioners within one month of the time when such keeping or use of such carriage, horse or other animal ceased, and, except for special cause shown, the Commissioners shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

180. Nothing in sections 168 to 179 shall be deemed to authorise the levy of more than one tax for the same period in respect of any carriage, horse or other animal which is used in the ordinary course of business in more than one municipality.

Prohibition of double tax.

In such cases the tax shall be levied by the Commissioners of the municipality within the jurisdiction of which the carriage, horse or other animal is kept.

181. A carriage, horse or other animal shall be deemed to be used in the ordinary course of business within the meaning of section 168, if it is used on business on an average thrice a week.

Meaning of "used in the ordinary course of business".

The tax on professions, trades and callings.

182. When it has been determined that a tax shall be imposed on professions, trades and callings every person who exercises in the municipality, either by himself or by an agent or representative, any of the professions, trades or callings specified in Schedule IV, shall take out a half-yearly license and pay the tax imposed under clause (f) of sub-section (1) of section 123.

Tax on professions, trades and callings.

The registration of carts.

183. (1) When it has been determined that a fee on registration of carts shall be imposed, the Commissioners at a meeting may make and publish an order that every cart, which is kept or is used in the ordinary course of business within the municipality, shall be registered by the Commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said Commissioners shall direct:

Registration and numbering of carts.

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

(Chapter V.—Municipal Taxation.—
Secs. 184—188.)

(2) This section shall not apply to—

- (a) carts which are the property of the ¹[Crown] or of the Commissioners;
- (b) carts which are kept without the limits of the municipality, and are only temporarily and casually used within such limits; and
- (c) the municipality of Howrah.

(3) The registration of carts shall be made and the numbers assigned yearly or half-yearly, on such days as the Commissioners shall notify.

Fee for
registration.

184. The fee payable for each registration under section 183 for every cart shall be such sum not exceeding six rupees as the Commissioners at a meeting may fix from time to time, if the registration has effect for one year and shall be half of this sum if the registration has effect for half a year.

Power to
increase fees
for carts with
narrow tyres
and rims.

185. Notwithstanding anything contained in section 184, the Commissioners at a meeting may, with the sanction of the ²[Provincial Government], increase by any amount not exceeding fifty *per cent.* the fee to be paid for registration of any cart any wheel of which has a rim or tyre of less than two inches in width.

Proportionate
payment of fee.

186. Any person becoming possessed of any cart which has not been registered for the then current period of registration shall register the same within one month from the date on which he has become possessed thereof, and the Commissioners shall grant registration in any such case on payment of such amount of the fee as bears the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person shall have become possessed as aforesaid.

Transfer of
ownership.

187. When the ownership of any registered cart is transferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four aunas shall be paid for every such re-registration.

Carts not to be
kept without
being registered
and without
number.

188. No person shall keep, or be in possession of a cart not duly registered as required by this Act, nor shall any person, being the owner or driver of any cart, fail to affix thereto the registration number as required by this Act.

¹This word was substituted for the word "Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter V.—Municipal Taxation.—Secs. 189, 190.)

189. (1) If any person owns or keeps any cart without registering the same as required by this Act, the Commissioners, or any person authorized by them in this behalf may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the animals, if any, drawing the same, and all police-officers are required, on the application of the Commissioners, or of any person duly authorized by them in that behalf, to assist in the said seizure.

Seizure and sale of unregistered carts.

(2) After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart and animals, if any, by auction at such place as they may state in the notice; and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Commissioners may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(3) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart and animals, if any, have been seized tenders, to the Commissioners, or to the person authorized by them to sell the property, the amount of all the expenses incurred and the registration fee payable by him, the Commissioners shall forthwith release the property so seized.

(4) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart and animals, if any, seized under this section, may be devoted to the payment of any fine imposed for a breach of the provisions of section 188; and any property which has been seized under this section may be sold for the realization of any such fine.

190. (1) Nothing in sections 183 to 189 shall be deemed to authorize the levy of more than one fee for the same period in respect of any cart which is used in the ordinary course of business in more than one municipality.

Carts used or registered in more than one municipality.

(2) When carts not kept within any municipality are so used in more than one municipality, the ¹[Provincial Government] may, if it thinks fit, apportion between all such municipalities the registration fees paid under this Act in respect of such carts.

¹See foot-note 3 on p. 1, *ante*.

[Ben. Act XV]

(Chapter V.—Municipal Taxation.—Secs. 191—194.)

(3) Where a cart is registered under this Act in more than one municipality, the Commissioners of the municipality within which the cart is kept shall have a right to levy the registration fee in preference to the Commissioners of any other municipality:

Provided that such right is claimed by notice to the other municipality or municipalities concerned within two months of the date on which the fee becomes due.

(4) Where any dispute arises between the Commissioners of any two or more municipalities regarding any claim made under sub-section (3) of this section the matter shall be referred to the decision of the ¹[Provincial Government] and the decision of the ¹[Provincial Government] shall be final.

Meaning of
"used in the
ordinary course
of business".

191. A cart shall be deemed to be used in the ordinary course of business, within the meaning of sections 183 to 190, if it is used on business on an average twice a week.

Tolls on ferries.

Ferries may be
declared to be
municipal.

192. The Commissioners may, with the sanction of the ¹[Provincial Government], declare that any ferry not being vested in any other local authority within or adjacent to, the limits of the municipality is a municipal ferry, and the profits derivable therefrom shall thenceforward be carried to the credit of the Municipal Fund:

Provided that due compensation shall be made by the Commissioners to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the magistrate under the provisions of section 17 of the Bengal Ferries Act, 1885, or any similar law for the time being in force.

Ben. Act I
of 1885.

Duties of
Commissioners
in regard to
such ferries.

193. Every municipal ferry shall be maintained by the Commissioners, and they shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed on such ferry.

Rate of tolls to
be established
and published.

194. When it has been determined to impose tolls on municipal ferries, the Commissioners at a meeting shall from time to time make and publish an order specifying the ferries and, with the sanction of the Commissioner of the Division, the rates at which such

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter V.—Municipal Tazation.—Secs. 195—198.)

toll shall be levied and shall cause a copy of such order to be permanently affixed on some conspicuous place at the ferry ghat.

195. No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, if he crosses the river or stream in a boat or other appliance which is kept for the personal use of such person.

When persons crossing river not liable to toll.

196. Every lease of a ferry given by the Commissioners as hereinafter provided shall be liable to be cancelled at once if it shall appear to the Commissioners at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the Commissioners.

Cancellation of ferry lease, etc.

On the cancelment of a lease the Commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the Commissioners shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that within a week of taking such possession, the Commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

197. Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuses to pay the toll to leave the boat or appliance and to remove his goods from it.

Toll must be prepaid.

198. No person shall keep a ferry-boat whether or not plying for hire within a distance of two miles above or below any municipal ferry without the previous sanction—

Keeping of unauthorized ferry-boat.

- (i) of the Commissioners, if he plies within the limits of the municipality,
- (ii) of the Magistrate of the district, if he plies without such limits, or
- (iii) of the Magistrate of the district and the Commissioners, if one of the two banks between which he plies is within, and the other bank is without, such limits.

(Chapter V.—Municipal Taxation.—
Secs. 198A—201.)

This section shall not apply to any private ferry which was in existence at the commencement of the Bengal Municipal Act, 1884.

Ben. Act
III of
1884.

Power of Commissioners to make rules as to ferries.

198A. The Commissioners at a meeting with the sanction of the ¹[Provincial Government] may make rules in all matters connected with the purposes of section 193, and for other matters relating to the management and leasing out of ferries.

Tolls on bridges.

Existing toll-bars.

199. The ²[Provincial Government] may, with the consent of Commissioners at a meeting, make over to the Commissioners any existing toll-bar on a bridge within the limits of the municipality to be administered by them until the ²[Provincial Government] shall otherwise direct; every toll-bar, while so administered shall be deemed to be a municipal toll-bar, and the profits derivable therefrom, or such parts thereof as shall be agreed upon between the ²[Provincial Government] and the Commissioners, shall be carried to the credit of the Municipal Fund.

Commissioners may establish toll-bars.

200. The Commissioners at a meeting, with the sanction of the ¹[Provincial Government] may establish a toll-bar and levy tolls on any bridge which they may have constructed after the commencement of the Bengal Municipal Act, 1884, or at any place within the municipality adjacent to such bridge at which tolls may conveniently be levied on carriages, carts and animals passing over such bridge; and the profits derivable therefrom shall be carried to the credit of the Municipal Fund:

Ben. Act
III of
1884.

Provided that no such toll-bar shall be established or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge and in maintaining such bridge in repair for the five years next after the construction thereof, together with interest on such expenses as provided in section 201.

Commissioners to publish expenses, etc., of toll-bars.

201. Whenever a toll-bar shall have been established, and tolls shall be levied, as provided in section 200, the Commissioners shall at the end of each year publish, by causing it to be posted up at their office, an abstract account showing—

- (i) the amount of expenses incurred in the construction of such bridge and in the maintenance of the same;

¹Section 198A was inserted by s. 32 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter V.—Municipal Taxation.—Secs. 202—205.)

- (ii) the amount of interest which has accrued due thereon, at the annual rate of *six per centum*; and
- (iii) the amount which has been received from the profits of the said toll-bar since its establishment;

and, as soon as such expenses and interests shall have been recovered as aforesaid, such toll-bar shall be removed and toll shall no longer be levied on such bridge.

202. When it has been determined that tolls shall be levied on any such bridge, the Commissioners at a meeting shall from time to time make and publish an order, with the sanction of the Commissioner of the Division, specifying rates at which such tolls shall be levied.

Rates of tolls to be established and published.

203. Any collector or lessee of tolls may refuse to allow any person to pass through any municipal toll-bar until the proper toll has been paid.

Power of collector or lessee in the case of refusal to pay toll.

204. No person taking through a toll-gate any motor vehicle, carriage, cart or animal (not exempted from toll) shall refuse to pay the toll, nor shall any person fraudulently avoid taking through a toll-gate any such motor vehicle, carriage, cart or animal with intent to evade payment of the toll.

Penalty for refusing to pay or avoiding payment of toll.

205. (1) If the toll due on any motor vehicle, carriage, cart or animal is not paid on demand, the person authorised to collect the same may seize such motor vehicle, carriage, cart or animal, or any part of its load of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Commissioners.

In case of non-payment of toll, vehicle, etc., may be seized and sold.

(2) After such seizure the Commissioners shall forthwith issue a notice in writing that, after the expiration of ten days, they will sell the property seized by auction at such place as they may state in the notice; and if any toll, together with the cost arising from such seizure and custody, remain undischarged for ten days after the issue of such notice, the Commissioners may sell the property seized for discharge of the toll, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(3) If the load or sufficient part thereof consists of articles which are subject to speedy and natural decay or consists of livestock, that load or part thereof may forthwith be sold under orders of the Commissioners.

*(Chapter V.—Municipal Taxation.—
Secs. 206—208.)*

(4) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction:

Provided that, if at any time before the sale has been concluded, the person whose property has been seized shall tender to the Commissioners, or to the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable, the Commissioners shall forthwith release the property seized.

(5) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of any property seized under this section may be devoted to the payment of any fine imposed for contravention of section 204; and any property which has been seized under this section may be sold for the realization of any such fine.

*General provisions relating to tolls on ferries and
bridges.*

Lease of ferry
or toll-bar.

206. The Commissioners at a meeting may grant a lease—

- (a) of any municipal toll-bar for any period not exceeding three years, and
- (b) of any municipal ferry for any period not exceeding three years or with the sanction of the '[Provincial Government]' for a longer period not exceeding nine years.

Table of tolls to
be hung up.

207. The Commissioners shall cause a table of tolls legibly written in Bengali to be hung up by the toll collector or lessee of the municipal ferry or toll-bar

in some conspicuous position at each end of every municipal ferry, and

in some conspicuous position near every municipal toll-bar,

so as to be easily read by all persons required to pay the toll.

Composition in
respect of tolls.

208. The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

¹See foot-note 3, on p. 1, *ante*.

of 1932.]

(Chapter V.—Municipal Taxation.—
Secs. 209—213.)

209. (1) No tolls shall be paid for the passage of Government stores or the persons in charge of them; Exemptions.

or of police-officers, or of any public or municipal or district board officer on duty, or of any person in their custody or of any property belonging to them or in their custody, or of any carriage, cart or animal employed by such persons for the transport of such property;

or of conservancy carts or other carriages, carts or animals belonging to the Commissioners or of the persons in charge of them:

Provided that tolls shall be leviable for conveying such animals over a ferry.

(2) The Commissioners or their lessees shall not be bound to allow any person or thing not specified in sub-section (1) to cross a ferry or to pass a toll-gate without payment of the proper toll:

Provided that the Commissioners at a meeting may from time to time exempt any class of persons or things not specified in sub-section (1) from payment of the said toll; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and any other person or things shall be allowed to pass without payment of the toll.

210. In all cases of resistance to the person authorised to collect tolls, police-officers shall assist, when required, and for the purpose shall have the same powers as they have in the exercise of their ordinary police duties. Police-officers to assist.

211. No person who is authorized under this Act to collect tolls shall demand or take any higher tolls than the tolls authorized under this Act. Prohibition of taking unauthorized tolls.

212. Any lessee of a municipal ferry or toll-bar who demands or takes any higher tolls than the tolls authorized, under this Act shall, in addition to any other penalty to which he is liable, be also liable to have his lease cancelled. Cancellation of lease.

213. If the '[Provincial Government] has declared that the provisions of the Canals Act, 1864, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipality it may, with the consent of the Commissioners at a meeting, appoint the Commissioners to collect tolls, as provided in section 8 of the said Act, until the '[Provincial Government] shall otherwise direct; and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Commissioners may be appointed to collect tolls in a navigable channel.

Ben. Act
V of 1864.

¹See foot-note 3 on p. 1, ante.

*(Chapter V.—Municipal Taxation.—
Secs. 214, 215.)*

¹[Provincial Government] and the Commissioners, shall thence forward be carried to the credit of the Municipal Fund.

In such case the Commissioners shall exercise all powers vested by such Act in the Collector.

Provincial
Government
may order
Commissioners
to cease levying
tolls.

214. The ¹[Provincial Government] may at any time order that the Commissioners, or any person authorized by them, shall cease to levy any tolls under section 213 and may at any time withdraw such order.

Rules.

Power to make
rules as to
taxation.

215. The ¹[Provincial Government] may make rules—

- (a) prescribing the qualifications of, and the procedure to be followed by, an assessor ²* * * appointed under this Act;
- (b) prescribing the procedure to be followed by a committee appointed under sub-section (I) of section 149 to review an assessment or valuation;
- (c) prescribing the form of notices under section 147 of notices of demand under sub-section (2) of section 155, of warrants under sub-section (I) of section 157, and returns of sales under sub-section (3) of section 159;
- (d) fixing the fees payable in connection with distraint under this Act;
- (e) prescribing the conditions and limitations under which a water-rate or lighting-rate may be imposed under the proviso to clause (a) of sub-section (I) of section 125;
- (f) prescribing the conditions and limitations under which a license may be granted for the purpose of a tax on the trades, professions, and callings specified in Schedule IV; and
- (g) regulating any other matter relating to taxes, tolls, fees or rates in respect of which this Act makes no provision or insufficient provision, and for which provision is, in the opinion of the ¹[Provincial Government], necessary, or which is directed to be prescribed.

¹See foot-note 3 on p. 1, *ante*.

²The words "of municipal taxes" were omitted by s. 33 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

of 1932.]

(Chapter VI.—Streets.—Secs. 216, 217.)

CHAPTER VI.

Streets.

General.

216. The provisions contained in sections 217 to 220 and in sections 223 to 229 shall not apply to any municipality, unless and until they have been expressly extended thereto by a notification issued by the ¹[Provincial Government] on application of the Commissioners at a meeting.

Certain provisions relating to streets to be applied only to certain municipalities.

Building-lines and street alignments for public streets.

217. (1) If the Commissioners at a meeting consider it expedient to prescribe for any public street a building-line or a street alignment, or both a building-line and a street alignment, they shall give public notice of their intention to do so:

Power to Commissioners to prescribe building-line and street alignment.

Provided that no building-line shall ordinarily be prescribed for any street laid out and made before the commencement of this Act.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises on the books of the municipality:

Provided that failure or omission to serve such notice on any owner shall not invalidate proceedings under this section.

(3) The Commissioners shall consider all objections received within the said period and shall hear any objector who comes forward within such period as they may fix in this behalf, and may then make an order prescribing a building-line or a street alignment or both a building-line and a street alignment for such public street.

A register or book with plans attached shall be kept by Commissioners showing all public streets in respect of which a building-line or street alignment has been prescribed, and such register shall contain such particulars as to the Commissioners may appear to be necessary and shall be open to inspection by any person upon payment of such fee as may from time to time be fixed by the Commissioners at a meeting.

(4) A building-line shall not be prescribed so as to extend further back than the main front wall of any

¹See foot-note 3 on p. 1, *ante*.

(Chapter VI.—Streets.—Sec. 218.)

building (other than a boundary wall) abutting on the street at its widest part.

(5) Every order made under sub-section (3) shall be published in the ¹[*Official Gazette*], and shall take effect from the date of such publication.

Restrictions on
erection of, or
addition to,
buildings or
walls within
street alignment
or building-line.

218. (1) No portion of any building or boundary wall shall be erected or added to within a street alignment prescribed under section 217:

Provided that the Commissioners at a meeting may, in their discretion, permit additions to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, an existing building or wall, upon the owner of the building executing, if required to do so by the Commissioners, an agreement binding himself and his successors in interest—

(a) not to claim compensation in the event of the Commissioners at any time thereafter calling upon him or such successors, by written notice to remove any addition made to any building in pursuance of such permission, or any portion thereof, and

(b) to pay the expenses of such removal.

(2) If the Commissioners refuse to grant the permission applied for to add to any building on the ground that the proposed site falls wholly or in part within a street alignment prescribed under section 217 and if such site, or the portion thereof which falls within such alignment, be not acquired by the Commissioners within six months after the date of such refusal, they shall pay reasonable compensation to the owner of the site.

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Commissioners at a meeting to do so:

Provided that it shall not be necessary to obtain permission under this sub-section to erect, between a street alignment and the building-line,—

(a) a porch or balcony, or,

(b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height.

(4) If the Commissioners grant permission under sub-section (3), they may require the applicant to

¹See foot-note 1 on p. 6, *ante*.

of 1932.]

(Chapter VI.—Streets.—Secs. 219—221.)

execute an agreement in accordance with the proviso to sub-section (1).

219. (1) The Commissioners may at any time after notice to the owner of the land of their intention take possession of—

Power to Commissioners to take possession of, and add to street, land situated within prescribed street alignment or covered by projecting buildings.

(a) any land (abutting on a public street) upon which any portion of any building or wall, projecting beyond the front of the adjoining building or wall, which is on either side of such first-mentioned building or wall, has collapsed or been demolished or burnt down, and

(b) any land not covered by buildings (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment prescribed under section 217,

after making full compensation to the owner thereof for any direct damage which he may sustain thereby and shall take possession of any land, as specified in clause (b), if the owner thereof calls upon them to do so.

(2) Any land taken possession of under sub-section (1) shall forthwith be added to and become part of the said street, and shall vest in the Commissioners.

Explanation.—The expression “direct damage,” as used in sub-section (1) with reference to land, means the market value of the land taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size; but does not include damage due to any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

220. The Commissioners at a meeting may, upon such terms as they think fit, allow any building or wall to be set forward for the purpose of improving the line of a public street.

Power to Commissioners to set buildings forward to improve line of public street.

Opening, improvement and closing of public streets, squares and gardens.

221. The Commissioners in pursuance of a decision arrived at a meeting may—

Power to Commissioners to make, improve and close public streets, squares and gardens.

(a) lay out and make new streets, squares and gardens;

(Chapter VI.—Streets.—Sec. 222.)

- (b) construct new bridges, causeways, culverts and sub-ways;
- (c) turn, divert, or temporarily or permanently close any public street or part thereof, or permanently close any public square or garden;
- (d) widen, open, enlarge, or otherwise improve any public-street, square or garden;
- (e) provide at their discretion building sites of such dimensions as they think fit to abut on, adjoin or obtain access from any public street made, widened, lengthened, extended, enlarged or improved by the Commissioners under clauses (a), (b), (c) or (d) or by the '[Provincial Government]';
- (f) subject to the provisions of any rule made by the '[Provincial Government]', prescribing the conditions on which the land may be acquired for the Commissioners, obtain, through the '[Provincial Government]' the acquisition of any land, along with the buildings thereon, which they consider necessary for the purposes of any scheme or work undertaken or projected in exercise of the powers conferred by the preceding clauses including purposes of recoupment of the cost of any such scheme or work; and
- (g) subject to the provisions of any rule made by the '[Provincial Government]', prescribing the conditions on which land vested in the Commissioners may be transferred, lease, sell or otherwise dispose of any land acquired for the Commissioners under clause (f) or any buildings erected thereon or any land used by the Commissioners for a public street, and in doing so impose any condition as to the description of any building to be erected thereon, as to the period within which such building shall be completed, as to the removal of any building existing thereon and as to any other matter that they deem fit.

Power to Commissioners to dispose of so much of a permanently closed street, square or garden as is not required.

222. (1) When any public street, or part thereof or any public square or garden, is permanently closed under section 221, the Commissioners, in pursuance of a decision arrived at at a meeting, may sell or lease the site of so much of the roadway and foot-path as is no longer required, or the site of the square or garden, as

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter VI.—Streets.—Secs. 223—225.)

the case may be, making due compensation to, or providing means of access for, any person who may suffer damage by such closing.

(2) In determining such compensation allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square or garden at or about the same time that the public street, square or garden on account of which the compensation is paid is closed.

Projected public streets.

223. (1) The Commissioners at a meeting may from time to time prepare schemes and plans of projected public street, showing the direction of such street, the street alignment and building-line on each side of them, their intended width and such other details as may appear desirable. Projected public streets.

(2) The width of such projected streets, inclusive of space for foot-paths, shall not be less than twenty feet:

Provided that—

(a) the Commissioners at a meeting may for special reasons reduce the width of any projected street but not so as to be less than sixteen feet; and

(b) this sub-section shall not apply in any case in which the projected street, or any part thereof, runs along an existing street and the Commissioners consider it impracticable to widen the street to the extent of twenty feet.

224. The provisions of section 218 shall, with all necessary modifications, apply to public street projected under section 223. Provisions of section 218 to apply to projected public streets.

Special provisions as to private streets.

225. (1) Any person intending to make or lay out a new private street shall send to the Commissioners a written notice, with plans and sections, showing the following particulars of the proposed street, namely:— Making of new private streets.

(a) the level, width and alignment thereof, and

(b) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining and lighting the street.

(2) The provisions of this Act as to the width of public streets and the height of buildings abutting thereon, and as to projected public streets, shall

(Chapter VI.—Streets.—Secs. 226, 227.)

respectively apply in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the Commissioners at a meeting:

Provided that the Commissioners at a meeting may allow a private street to be made or laid out of a width less than twenty feet but not less than sixteen feet.

(3) Within ninety days after the receipt of any notice under sub-section (1) the Commissioners at a meeting shall either sanction the making of the street, or disallow it, or ask for further information with respect to such street.

(4) Such sanction may be refused—

- (i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Commissioners likely to be made within a reasonable period, for carrying out any general scheme of street improvement, or
- (ii) if the proposed street does not conform to the provisions of this Act referred to in sub-section (2), or
- (iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) If further information is asked for under sub-section (3), no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information, and such orders shall be passed within ninety days of the receipt of such further information.

(6) If within ninety days after the receipt of any notice under sub-section (1), or within ninety days after the receipt of any further information asked for under sub-section (3), the Commissioners have not refused sanction to the making of the private street, it shall be deemed that sanction to the same has been granted.

Prohibition of
breach of section
225.

226. Except as provided in sub-section (6) of section 225, no person shall make or lay out any street referred to in sub-section (1) of section 225—

- (a) until he has obtained the sanction of the Commissioners under that section, or
- (b) in contravention of any orders made thereunder.

Alteration or
demolition of
street made in
breach of section
225.

227. (1) If any person makes or lays out any street referred to in sub-section (1) of section 225, without having obtained the sanction of the Commissioners under that section, or in contravention of any orders

of 1932.]

(Chapter VI.—Streets.—Secs. 228, 229.)

made thereunder, the Commissioners may, whether or not the offender be prosecuted under this Act, by written notice,—

- (a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Commissioners on or before such day as may be specified in the notice, why such street should not be altered to conform to the provisions of the rules made under sub-section (1) of section 228 or, if such alteration be impracticable, why such street should not be demolished, or
- (b) require the offender to appear before them, either personally or by a duly authorised agent, on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause, to the satisfaction of the Commissioners, why such street should not be so altered or demolished, they may cause the street to be so altered or demolished, and the expenses thereof shall be paid by such person.

228. (1) If any private street or any part thereof be not levelled, paved, metalled, flagged, channelled, sewered, drained or lighted in accordance with the rules to be made by the Commissioners at a meeting for this purpose, they may, by written notice to the owner of such private street or the respective owners of the land fronting, adjoining or abutting upon such street or part, as the case may be, from time to time require them to level, pave, metal, flag, channel, sewer, drain or light such street or part in accordance with the provisions of such rules.

Levelling, etc.,
of private
streets.

(2) If such notice be not complied with and the Commissioners, under sub-section (2) of section 514, execute the works mentioned or referred to therein, the expenses thereby incurred shall be paid by the owner of such private street or the owners in default, in such proportion as may be settled by the Commissioners at a meeting.

229. If any private street which conforms to the provisions of this Act referred to in sub-section (2) of section 225 be levelled, paved, metalled, flagged, channelled, sewered, drained and lighted in accordance with the provisions of the rules made under sub-section (1) of section 228, and if a majority of—

Power to
Commissioners
to take over
private streets.

- (a) the owners of land or buildings in such street,
or

[Ben. Act XV*(Chapter VI.—Streets.—Secs. 230, 231.)*

- (b) the owners of the street, or
- (c) the owners who have paid the expenses referred to in sub-section (2) of section 228,

signify in writing their consent thereto, the Commissioners at a meeting shall declare the same, by written notice put up in any part of such street, to be a public street, and thereupon the same shall become a public street and shall vest in the Commissioners:

Provided that, where a private street has been in existence for not less than thirty years and if used by the people of the locality as a thoroughfare, the Commissioners at a meeting may declare such street to be a public street, even though it does not strictly comply with the provisions of this chapter, if—

- (a) the owners of the lands and buildings in such street, or
- (b) the owners of the street,

signify in writing their consent thereto.

Supplemental provisions for regulating and protecting streets.

Duties of Commissioners when constructing public streets, etc.

230. (1) The Commissioners shall, during the construction or repair of a public street or of any water-works, drain or premises vested in them, or whenever any public street, water-works, drain or premises vested in them have, for want of repairs or otherwise, become unsafe for use by the public take all necessary precautions against accident by—

- (a) shoring up and protecting adjacent buildings, and
- (b) fixing bars, chains, posts or other barriers across or in any street for the purpose of preventing or diverting traffic during such construction or repair, and
- (c) guarding and providing with sufficient lighting from sunset to sunrise any work in progress.

(2) No person shall, without the authority or consent of the Commissioners, in any way interfere with any arrangement or construction made by the Commissioners under sub-section (1) for guarding against accident.

Hoardings to set up during repairs.

231. (1) Every person intending to build or take down any house, or to alter or repair the outward part of any house, shall, if any public street will be obstructed or rendered inconvenient or dangerous by means of such work, before beginning the same, cause hoardings or fences to be put up to the satisfaction of

of 1932.]

(Chapter VI.—Streets.—Secs. 232—234.)

the Commissioners in order to separate the house where such works are being carried on from the street, and shall keep such hoardings or fences standing and in good condition, to the satisfaction of the Commissioners during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that, no person shall put up a hoarding or fence without the written permission of the Commissioners, nor shall he keep up the said hoarding or fence for a time longer than allowed in the said written permission.

(2) Any person who contravenes the provisions of sub-section (1) or who, without written permission, erects or sets up any hoarding, scaffolding or fence whatsoever, or who, being permitted, fails to put up such hoarding, scaffolding or fence or to continue the same standing, or to maintain the same in good condition, or who does not, while such hoarding or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within eight days when directed by the Commissioners, shall be liable to fine as provided in this Act.

232. The Commissioners may grant permission to any person, for such period and on such conditions as they may think fit, to deposit any movable property on any public street, or to make an excavation in any public street, or to enclose the whole or any part of any street, and may charge such fees as they may fix for such permission:

Leave to deposit materials temporarily on, or to excavate or close, a street.

Provided that such person shall make due provision for the passage of the public and shall erect sufficient fences to protect the public from injury, danger or annoyance, and shall light such fences from sunset to sunrise sufficiently for such purpose.

233. The Commissioners may close temporarily any public street or part thereof for the purpose of repairing such street, or for the purpose of constructing any sewer, drain, culvert or bridge, or for any other public purpose:

Power to close a street or part of a street for repairs or other public purpose.

Provided that the Commissioners so closing any street shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such street.

234. The Commissioners at a meeting may make an order closing any public street or part thereof to cart or motor traffic:

Power to close a street or part of a street to cart or motor traffic.

(Chapter VI.—Streets.—Secs. 235, 236.)

Provided that no such order shall remain in force for more than six months without the sanction of the¹[Provincial Government].

Sanction of
Commissioners
to projection
over streets and
drains.

235. (1) No person shall put up any verandah, balcony, sunshade, weather-frame or the like to project over any public street without the written permission of the Commissioners.

(2) Subject to any rules made by the¹[Provincial Government] prescribing the conditions for the sanction by the Commissioners of projections over public streets or drains, the Commissioners at a meeting may, in their discretion, give written permission on such conditions as they may think fit, and, on payment of such fees or rent as they may from time to time fix, to the owners or occupiers of buildings abutting on public streets to erect or re-erect verandahs, balconies, sunshades, weather-frames and the like, whether supported by pillars or not, to project from any building over a street or a drain in a street from any upper storey thereof, at such height from the surface of the street and to such an extent beyond the line of the plinth or basement wall as are specified in by-laws to be framed under section 245.

(3) In giving permission under sub-section (2), the Commissioners may prescribe the extent to which, and the conditions under which, any roofs, eaves, weather-boards, and the like may be allowed to project over such streets.

(4) At any time after any permission has been given under sub-section (2), the Commissioners at a meeting may, by written notice, require the owner or occupier of the building to remove the projection referred to in such permission and the owner or occupier shall be entitled to reasonable compensation out of the Municipal Fund for such removal.

Erection of
p'atforms.

236. (1) No platform shall be erected, re-erected or extended upon or over any public street or drain without the previous sanction of the Commissioners at a meeting.

(2) The owner of every platform, except platforms which are used for giving such access to the houses as the Commissioners may consider necessary, shall, if the Commissioners at a meeting so direct, take out a license for keeping the platform.

(3) Every such license shall remain in force until rescinded by the Commissioners at a meeting.

(4) For every such license there shall be paid annually a fee to be fixed by the Commissioners at a meeting:

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter VI.—Streets.—Secs. 237—240.)

Provided that a platform erected, re-erected or extended upon or over any public street or drain before the commencement of this Act with the permission of the Commissioners at a meeting shall be allowed to remain on the same terms and conditions including the payment of any rent or fee prescribed in the permission.

237. Whenever any building, wall, revetment or other erection or any part thereof, or any tree, stone, soil or *debris* from private premises falls down or is caused to fall down and obstructs or encumbers any public street or drain, the Commissioners may remove such obstruction or encumbrance at the expense of the owner of the same, or may require him to remove the same within such time as to the Commissioners may seem fit.

Removal of fallen house, etc., obstructing street or drain.

238. (1) No person shall, without the consent of the Commissioners, dig or cut up a public street in order to provide for the passage of water or for any other purpose.

Prohibition for cutting street.

(2) Whoever contravenes the provisions of this section shall, in addition to any other penalty imposed under this Act, be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public street.

239. The Commissioners may, by notice, require the owner or occupier of any building or land abutting on a street to put up and keep in good condition proper troughs and pipes for receiving and carrying off the water from the building or land, and for discharging the same in such manner as the Commissioners may think fit, so as not to inconvenience persons passing along the street.

Regulation of troughs and rain-water pipes affecting a street.

240. (1) The Commissioners—

(a) may, without notice themselves or by any officer authorized by them in writing in this behalf remove, alter or otherwise deal with any wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction or encroachment (not being a portion of a building or fixture referred to in section 241) which has, without first obtaining their written permission been erected or set up in, over, above or upon any house-gully, or any public street, sewer, drain, aqueduct, water-course or *ghat*;

Removal of encroachments over house-gullies, etc.

(b) may issue a notice requiring any person to remove any wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction, or encroachment (not being

(Chapter VI.—Streets.—Sec. 240.)

a portion of a building or a fixture referred to in section 241) which he may have erected or set up in, over, above, or upon any house-gully, or any public street, sewer, drain, aqueduct, water-course or *ghat*, and which remains so erected or set up when the period covered by any permission given in its behalf has expired; and

- (c) may, themselves or by any officer authorized by them in writing in this behalf, remove without notice any materials or goods or any movable property, which has, without their permission, been deposited in a public street or in, over, above, or upon any house-gully, or any public sewer, drain, aqueduct, water-course or *ghat*, or which remains so deposited, when the period covered by any permission given in this behalf has expired, whether or not the offender be prosecuted under this Act or any rules or by-laws made thereunder, and the offender shall be liable to pay the expense of such removal.

(2) If the person who erected or set up any of the projections, obstructions or encroachments referred to in clause (b) of sub-section (1) is not known or cannot be found, the Commissioners may cause a notice to be posted up in the neighbourhood of the said projection, obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(3) Notwithstanding any prosecution which may be instituted, if the person on whom a notice has been issued under clause (b) of sub-section (1) fails to comply with the requisition within the period specified in the notice,

or if where a notice has been posted up under sub-section (2) the projection, obstruction or encroachment is not removed within the period specified in such notice,

the Magistrate may, on the application of the Commissioners, order that the projection, obstruction or encroachment be removed, and thereupon the Commissioners may, notwithstanding anything contained in sections 514 to 518, remove such projection, obstruction or encroachment,

and the expenses thereby incurred shall be recovered from the person who erected or set up the same or by the sale of the materials removed.

of 1932.]

(Chapter VI.—Streets.—Secs. 241, 242.)

(4) No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment under this section.

241. (1) When any verandah, platform or other similar structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act, causes a projection, encroachment or obstruction over or on any house-gully or public street or any land vested in the Commissioners they may, by written notice, require the owner or occupier of the building to remove or alter such structure or fixture.

Power to Commissioners to remove or alter verandah, etc., or fixtures attached to building which project, etc., over public street or land.

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

(3) If the person on whom a notice is issued under sub-section (1) fails to comply with the requisition within the period specified therein, the Magistrate may, on the application of the Commissioners, order that such structure or fixture be removed or altered, and thereupon the Commissioners may carry into effect the order of the Magistrate, and recover from the owner or occupier of the building the cost thereby incurred:

Provided that if the owner or occupier proves that any such structure or fixture was erected before the District Municipal Improvement Act, 1864, or the District Towns Act, 1868, or the Bengal Municipal Act, 1876, as the case may be, took effect in the municipality or in the case of a municipality, constituted under the Bengal Municipal Act, 1884, in which none of the aforesaid Acts was in force prior to the commencement of that Act, before the date of the constitution of that municipality, or, in the case of a municipality constituted after the commencement of this Act, before the date of the constitution of that municipality, the Magistrate shall order reasonable compensation to be paid to any person who suffers damage by the removal or alteration thereof.

Ben. Act
IV of
1864.
Ben. Act
VI of
1868.
Ben. Act
V of
1876.
Ben. Act
III of
1884.

In determining the amount of compensation, the value of the land shall not be taken into consideration.

242. The Commissioners may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any public street or drain and to cut and trim any trees thereon overhanging any public street or drain or tank or any well used for drinking purposes, or obstructing any public street or

Commissioners may require landholders to trim hedges, etc.

(Chapter VI.—Streets.—Secs. 243—245.)

drain or any property of the Commissioners, or likely to cause damage to any person using any public street, or fouling or likely to foul the water of any well or tank.

Commissioners may require owners of land to repair damage to streets, etc.

243. Whenever any public street or drain or any other municipal property is damaged, washed away or eroded by any private pool, ditch, tank, pond, pit or other excavation which exists by the side of such street, drain or property, the Commissioners may, by written notice, require the owner or occupier of the land on which such pool, ditch, tank, pond, pit or excavation is situated to repair the damage and to restore the street, drain or property to its original condition as far as possible within one month from the date of the service of such notice.

Names of streets and numbers of houses.

244. (1) The Commissioners at a meeting may cause a name to be given to any public street or square and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

(2) No person shall destroy, pull down, deface or alter any name or number put up by the Commissioners under the authority of sub-section (1).

Power to make by-laws.

245. The Commissioners at a meeting may make by-laws—

- (a) to regulate or prohibit any description of traffic on public street, or on approaches to *ghats* or public ferries and to prevent obstructions, encroachments, or excavations on or near such streets, *ghats* or ferries;
- (b) to prevent, prohibit or regulate the use or occupation of any or all public streets or places by any person for the sale of articles or for the exercise of any calling or for setting up any booth or stall, and to provide for the levy of fees for such use or occupation;
- (c) to determine the information and plans to be furnished to the Commissioners under section 225; and
- (d) to regulate the conditions on which permission may be given under section 235 with reference to projections over public streets and drains and to provide for the payment of fees or rent for such user of the streets and drains and to provide for the removal of such projections.

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(Chapter VII.—*Conservancy and Drainage*.—
Secs. 246—249.)

CHAPTER VII.

Conservancy and Drainage.

Removal of sewage, rubbish and offensive matter.

246. The Commissioners at a meeting shall provide for the removal—

Duties of Commissioners in relation to conservancy.

- (a) of sewage, rubbish and offensive matter from all public latrines, urinals and drains, and from all public streets and all other property vested in the Commissioners, and
- (b) in any municipality wherein a conservancy-rate has been imposed under section 123, of sewage and offensive matter from all private latrines, urinals and cess-pools,

and for the disposal of such sewage, rubbish or offensive matter and for the cleansing of such latrines, urinals, drains and cess-pools, and shall maintain sufficient establishment, animals, carts, sewers, pumps, drains, outfall and disposal works and implements for the said purposes.

247. (1) The Commissioners at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of the municipality, or any part thereof, to take out licenses, and to be servants of the Commissioners for the purpose of removing sewage from premises within the said limits.

Control over night men.

The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

(2) Subject to the approval of the '[Provincial Government], the Commissioners at a meeting may make rules to define the duties of such persons, and any breach of such rules shall subject the offender to a forfeiture of license and to a fine as provided in such rules.

248. The Commissioners at a meeting may from time to time publish an order prescribing the hours within which and the manner in which sewage, rubbish and offensive matter may be removed.

Power to prescribe times and manner of removal of sewage, etc.

249. All servants of the Commissioners employed for the purposes of this chapter may, within such hours as may be fixed from time to time by the Commissioners at a meeting, enter on any premises of which the

Power of conservancy establishment.

¹See foot-note 3 on p. 1, ante.

*(Chapter VII.—Conservancy and Drainage.—
Secs. 250—252.)*

occupier or owner is liable to pay a conservancy-rate, and do all things necessary for the performance of their duties under this chapter.

Deposit and removal of sewage, etc., in certain municipalities.

250. In any municipality ¹[or part thereof] wherein a conservancy-rate has not been imposed, the Commissioners at a meeting may provide places convenient for the deposit of sewage, rubbish and offensive matter and may require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places, and may remove the same at the expense of the occupier from any house, if the occupier thereof fails to do so as required by this section.

Appointed hours for placing rubbish, etc., on public street.

251. (1) The Commissioners at a meeting may from time to time publish an order prescribing the hours within which only an occupier of any house or land may place rubbish or offensive matter on the public street adjacent to his house or land in a proper receptacle provided by the Commissioners in order that such rubbish or offensive matter may be removed by the servants of the Commissioners.

(2) No person shall place or allow his servant to place rubbish or offensive matter on a public street at other than the times appointed and except in the receptacles provided by the Commissioners under sub-section (1).

Removal of rubbish, etc., from premises.

252. (1) The Commissioners at a meeting may contract with the occupier of any premises to remove rubbish or offensive matter direct therefrom and may charge fees in this behalf.

(2) When building operations are being carried on in any premises or when any premises are used for carrying on any manufacture, trade or business, the Commissioners may,—

(a) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises in the course of such operations, manufacture, trade or business and to remove the same, at such times, in such carts or receptacles, and by such routes as may be specified in the notice to a place provided or appointed in this behalf by the Commissioners, or

(b) after giving such occupier written notice of their intention so to do, themselves cause all such rubbish and offensive matter to be

¹These words were inserted by s. 34 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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(Chapter VII.—*Conservancy and Drainage*.—
Secs. 253, 254.)

removed, and charge such occupier for such removal such periodical fee as they may specify in such notice:

Provided that the requisition under clause (a) shall not be enforced by the Commissioners nor shall action be taken by them under clause (b) until the occupier of the premises has been given an opportunity of being heard within such time as may be specified in the written notice that is served on him.

253. No person who, being the occupier of a house in or near a public street, shall keep or allow to be kept, for more than twenty-four hours, or for more than such shorter time as may be fixed by the Commissioners at a meeting, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, nightsoil or filth or any noxious or offensive matter in or upon such house, or in any outhouse, yard or ground attached to and occupied with such house, nor shall any person suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to cleanse the same.

Removal of
offensive matter
from or near
street.

254. No person shall—

- (i) throw or put or cause or permit to be thrown or put, any sewage or offensive matter upon any street, or drop, pass or place, or cause to be dropped, passed or placed, into or in any drain, any brick, stones, earth or ashes or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed; or
- (ii) without the permission of the Commissioners pass, or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain was not provided; or
- (iii) without the permission of the Commissioners cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or work place, or from any building or place in which steam, water or mechanical power is employed, any hot water, steam or fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain, or which would, from its temperature or otherwise, be likely to create a nuisance.

Prohibition of
allowing
sewage,
offensive matter
or rubbish to be
thrown or run
into street or
drain thereof.

*(Chapter VII.—Conservancy and Drainage.—
Secs. 255—258.)*

Disposal of dead
bodies of
animals.

255. (1) Whenever an animal in the charge of a person dies, otherwise than by being slaughtered either for sale or consumption or for some religious purpose, the person in charge thereof shall, either—

- (a) convey the carcass within twenty-four hours to a place (if any) fixed by the Commissioners for the disposal of the dead bodies of animals, or to a place beyond municipal limits not being within one mile of those limits, or
- (b) give notice of the death within six hours to the Commissioners whereupon the Commissioners shall cause the carcass to be disposed of.

(2) For the disposal of the carcass under clause (b) of sub-section (1), the Commissioners may charge such fee as they may determine at a meeting and may recover the same, if not paid in advance, from the owner or person in charge of the animal.

Rubbish
deposited to
be the property
of the
Commissioners.

256. All things deposited in places provided or appointed under this chapter for the deposit of sewage, offensive matter, rubbish and carcasses of animals shall be the property of the Commissioners.

Public latrines.

257. The Commissioners in pursuance of a decision arrived at at a meeting shall provide and maintain in sufficient numbers and in proper situations public latrines and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

Power to
Commissioners
to require privy
and other
accommodation
to be provided
in buildings.

258. (1) When application is made to erect or materially alter any building—

- (i) intended for human habitation, or
- (ii) at or in which labourers or workmen are to be employed,

the Commissioners may direct that such privy and urinal accommodation shall be provided as they consider to be suitable therefor.

(2) In directing the provision of any such accommodation the Commissioners may determine in each case—

- (a) where an underground sewerage system has been provided, whether such building shall be provided with service or connected privies or urinals, or partly with one and partly with the other; and
- (b) what shall be the site or position of each privy or urinal, and their number.

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*(Chapter VII.—Conservancy and Drainage.—
Sec. 259.)*

(3) When any premises at or in which not less than twenty labourers or workmen are employed are without privy, urinal, bathing or washing place accommodation to the satisfaction of the Commissioners they may, by written notice, require the owner of such premises to provide such privy, urinal or bathing or washing place accommodation as they may prescribe.

259. (1) When any premises intended for human habitation are without privy or urinal accommodation, or if the Commissioners are of opinion that the existing privy or urinal accommodation available for the persons occupying or employed in any premises is insufficient, inefficient, or on any grounds objectionable, the Commissioners may, by written notice, require the owner of such premises—

Power to Commissioners to require such provisions to be made in other cases.

- (a) to provide such, or such additional, privy or urinal accommodation as they may prescribe; or
- (b) to make such structural or other alterations in the existing privy or urinal accommodation as they may prescribe; or
- (c) where there is an underground sewerage system, to substitute connected-privy or connected urinal accommodation for any service-privy or service-urinal accommodation:

Provided that where the privy or urinal accommodation of any premises—

- (i) has been, and is being, used in common by the persons occupying or employed in such premises and any other premises, or
- (ii) is, in the opinion of the Commissioners, likely to be so used,

the Commissioners may, if they are of opinion that such accommodation is sufficient to admit of the same being used by all the persons occupying or employed in all the said premises, direct in writing that separate privy or urinal accommodation need not be provided on or for such other premises:

Provided also that the Commissioners may, if they are of opinion that there is sufficient public latrine accommodation available for all the persons occupying or employed in any premises, direct that separate privy or urinal accommodation need not be provided for such premises.

(2) Any requisition under sub-section (1) may comprise any detail specified in sub-section (2) of section 258.

*(Chapter VII.—Conservancy and Drainage.—
Secs. 260—263.)*

Breach of
by-laws in
regard to
house-drain,
etc.

260. When by-laws have been framed under section 269 or section 277 no person shall construct, renew, rebuild, remove, obstruct, destroy, or change any house-drain, cess-pool, privy, sink, or urinal or appurtenances thereof, in contravention of any such by-law or of any notice issued or direction given thereunder or without the written permission of the Commissioners at a meeting.

Location of
house-drains,
privies, etc.

261. No person shall, without the written permission of the Commissioners at a meeting, construct or keep any house-drain, service-privy, urinal or cess-pool within fifty feet of any tank, well, or water-course or any reservoir for the storage of water or construct any privy with a door or trap-door opening into any road or drain.

Powers of
Commissioners
to inspect
latrines, urinals,
etc.

262. (1) All latrines, urinals, sinks, cess-pools and drains shall be subject to the control of the Commissioners and the Commissioners or any officer authorized by them in this behalf may inspect any latrine, urinal, cess-pool, sink, drain or receptacle for sewage or offensive matter at any time between sunrise and sunset, after notice in writing to the occupier of the premises in which such latrine, urinal, cess-pool, sink, drain or receptacle is situated and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of inspection or of preventing or removing any nuisance arising from such latrine, urinal, cess-pool, sink, drain or receptacle.

(2) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the Commissioners, unless the latrine, urinal, cess-pool, sink, drain or receptacle is found to be in bad order or condition or to have been constructed in contravention of any provisions of, or made under, this or any other enactment, in which case such expense shall be recovered from the owner or occupier.

Powers of
Commissioners
to require repair,
alteration,
removal of
latrine, etc.

263. (1) The Commissioners may require by notice the owner or occupier of any land or building, within a period to be specified in the notice,—

- (a) to close, remove, alter, repair, disinfect or put in good order any cess-pool, drain or receptacle for sewage, offensive matter or rubbish pertaining to such land or building, to provide to their satisfaction access from a house-gully or lane to any service-privy or service-urinal in or on such land or building, or to demolish any privy or urinal constructed, rebuilt or altered in or on such land or

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*(Chapter VII.—Conservancy and Drainage.—
Secs. 264, 265.)*

building in contravention of section 261 or any by-law framed under section 269 or section 277;

- (b) to provide such cess-pools, drains or receptacles for sewage, offensive matter or rubbish, as should, in their opinion, be provided for the building or land whether in addition or not to any existing ones; or
- (c) to cause any latrine or urinal provided for the building or land to be shut off by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood.

(2) When requiring under sub-section (1) anything to be provided, altered or done, the Commissioners may specify in the notice the description of the thing to be provided, the pattern to conform with which the thing is to be altered, and the manner in which the thing is to be done.

264. (1) Where a privy or privies belonging to one or more premises are so placed as in the opinion of the Commissioners to afford to the municipal conservancy staff no suitable means of access thereto for the purpose of cleansing such privy or privies, the Commissioners may, by written notice to the owner or owners of such privy or privies, require them to provide a house-gully of such dimensions and so paved and drained as they may think necessary for such purpose.

Powers of Commissioners to require construction of house-gully.

(2) If such notice be not complied with within the time fixed by the Commissioners, they may themselves acquire land and construct such house-gully, and the expenses thereby incurred shall be paid by the owner in default, and where there is more than one owner, by the owners in such proportion as may be settled—

- (a) by the Commissioners at a meeting; or
- (b) in case of dispute, by the District Magistrate.

(3) The house-gully after construction shall be deemed to be a private street unless and until it vests in the Commissioners in accordance with the provisions of section 229.

265. When, under sub-section (1) of section 263, an owner or occupier is required by the Commissioners to use disinfectants the Commissioners may themselves supply disinfectants or deodorants for such use at cost price, and the expenses thereby incurred shall be considered as an arrear of tax, and be recoverable as

Supply of disinfectants by Commissioners.

*(Chapter VII.—Conservancy and Drainage.—
Secs. 266—269.)*

such from the owner of the cess-pool, drain or receptacle, as the case may be, or the Commissioners at a meeting may, if they think fit, order that such expense shall be paid from the Municipal Fund.

Neglect to keep latrine, etc., in proper order.

266. The owner or occupier of any premises to which any latrine, urinal, cess-pool, drain or other receptacle for sewage or offensive matter pertains, shall keep in a proper state such latrine, urinal, cess-pool, drain or other receptacle :

Provided that no person who pays a conservancy-rate shall be liable to punishment for non-compliance with the provisions of this section where the default is exclusively due to the failure of the Commissioners to perform their obligations under this Act.

Scavenging on occasions of fairs and festivals and contribution from persons having control over places of pilgrimage.

267. The Commissioners in pursuance of a decision arrived at at a meeting shall make any special scavenging arrangements that may be necessary on occasions of fairs, festivals or other large assemblies of people, and in the case of such assemblies held in connection with any place of pilgrimage in or within two miles of the municipality, the Commissioners may require the persons having control over such place of pilgrimage to make such contribution as the ¹[Provincial Government] may on each such occasion approve towards the cost of such arrangements.

Power to Commissioners to employ special establishment for removing excessive rubbish, sewage or offensive matter.

268. Where in the opinion of the Commissioners at a meeting the accumulation of rubbish, sewage or offensive matter on any premises, or the amount of rubbish, sewage or offensive matter from any premises deposited on any place other than a place set apart by the Commissioners for the disposal of rubbish, sewage or offensive matter is excessive, they may sanction the employment of special establishment for the cleansing of such premises or for the removal of such rubbish, sewage or offensive matter and may impose on the owner or occupier of such premises such fee as they may deem proper to defray the cost of such establishment.

By-laws relating to conservancy.

Power to make by-laws regarding conservancy.

269. The Commissioners at a meeting may make by-laws—

- (a) regulating the disposal of sewage, offensive matter, the carcasses of animals and rubbish;
- (b) requiring notice of intention to construct, repair or alter a privy or urinal or any

¹See foot-note 3 on p. 1, *ante*.

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(Chapter VII.—*Conservancy and Drainage.*—
Secs. 270, 271.)

appurtenances thereof and determining the plans, specifications or other particulars to be furnished therewith;

- (c) regulating the giving or refusing of sanction to the construction, repair or alteration of privies or urinals or appurtenances thereof, their position, design, ventilation, flooring, drainage, and providing for their proper and efficient maintenance;
- (d) where there is an underground sewerage system providing for the proper connection of privies and urinals therewith and the fees to be charged in this behalf and regulating the material, size, laying, position, trapping, ventilation and flushing of all private pipes or sewers pertaining to such privies or urinals, and the proper construction, flooring and ventilation of connected privies and urinals and for the provision of all appurtenances thereof;
- (e) regulating the position, construction and maintenance of cess-pools and sinks; and
- (f) generally regulating conservancy.

Drainage.

270. The Commissioners in pursuance of a decision arrived at at a meeting may construct within or, subject to the sanction of the ¹[Provincial Government], outside the municipality, such drains as they think necessary for keeping the municipality properly cleansed and drained and may carry such drains through, across or under any street: Construction of public drains.

Provided that no drain shall be constructed within the limits of a Cantonment without the approval of the ¹[Provincial Government] and otherwise than with the concurrence of the Officer Commanding-in-chief the Command in which such Cantonment is situated or, in the event of such concurrence being withheld, with the previous sanction of the ²[Central Government].

271. (1) The Commissioners in pursuance of a decision arrived at at a meeting may, from time to time, enlarge, lessen, alter the course of, cover in or otherwise improve a municipal drain and may discontinue, close up or remove, any such drain. Alteration of public drains.

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "Governor-General in Council" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

*(Chapter VII.—Conservancy and Drainage.—
Secs. 272—274.)*

(2) The exercise of the power conferred by subsection (1) shall be subject to the condition that the Commissioners shall provide another and equally effective drain in place of any existing drain of the use of which any person is deprived by the exercise of the said power.

Use of public
drains by
private owners.

272. The owner or occupier of a building or land shall be entitled to cause his drains to empty into the municipal drains, provided that he first obtains the written permission of the Commissioners, and that he complies with such conditions, consistent with any by-law, as the Commissioners at a meeting prescribe, as to the mode in which and the superintendence under which the communications are to be made between private drains and municipal drains.

Power to order
demolition of
drain
constructed
without consent
of Commissioners.

273. No person shall, without the written consent of the Commissioners first obtained, make or cause to be made, or alter, or cause to be altered, any drain or branch drain leading into any of the municipal sewers or drains or into any water-course, street or land vested in the Commissioners, and the Commissioners may cause any drain or branch drain so made, or altered, to be demolished, altered, remade or otherwise dealt with as they shall think fit; and the expenses thereby incurred shall be paid by the person making or altering such drain.

Group or block
of buildings, etc.,
may be drained
by a combined
operation.

274. (1) If it appears to the Commissioners at a meeting that a group or block of buildings may be drained or improved more economically or advantageously in combination than separately, and if a municipal sewer or drain of sufficient size already exists or is about to be constructed within one hundred feet of any part of such group or block of buildings, the Commissioners may cause such group or block of houses to be so drained and improved,

and the expenses thereby incurred shall be recovered from the owners of such buildings, in such proportions as shall to the Commissioners seem fit.

(2) Not less than one month before any such work is commenced the Commissioners shall give to each such owner—

(a) written notice of the nature of the proposed work;

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

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*(Chapter VII.—Conservancy and Drainage.—
Secs. 275—277.)*

275. When any premises are, in the opinion of the Commissioners at a meeting, without sufficient means of effectual drainage, and a municipal drain or some place approved by the Commissioners for the discharge or drainage is situated at a distance not exceeding one hundred feet from any part of the said premises, they may, by written notice, require the owner of the said premises—

Power to Commissioners to enforce drainage of undrained premises situated within one hundred feet of a municipal drain.

- (a) to make a house-drain, emptying into such municipal drain or place, of such material, size and description and with such flushing arrangements as the Commissioners may prescribe;
- (b) to remove any existing house-drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health:

Provided that the land necessary for making the house-drain empty into the municipal drain or approved place may be acquired by the Commissioners at the cost of the owner of the said premises.

276. When any premises are, in the opinion of the Commissioners at a meeting, without sufficient means of effectual drainage, and there is no municipal drain within one hundred feet of any part of the said premises, they may, by written notice, require the owner of the premises to construct—

Power to Commissioners to enforce drainage of undrained premises in other cases.

- (a) a close cess-pool of such material, size and description, and in such position, as they may prescribe, and
- (b) a house-drain communicating with such closed cess-pool.

By-laws relating to drainage.

277. The Commissioners at a meeting may make by-laws—

Power to Commissioners to make by-laws.

- (a) requiring every person who intends to construct, repair, add to or alter a house-drain or cess-pool, to submit an application to the Commissioners with such plans and other particulars as may be prescribed and regulating the giving and refusing of sanction to such application; and
- (b) regulating the material, size, laying, flushing, ventilation, trapping, and position of drains and generally their construction, repair and maintenance.

[Ben. Act XV]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 278, 279.)

CHAPTER VIII.

Water-supply, Lighting, Drainage and Sewerage Systems.

Commissioners to provide water-supply, drainage and lighting.

278. (1) It shall be lawful for the Commissioners of every municipality—

- (a) to provide a sufficient supply of water for the domestic use of the inhabitants;
- (b) to provide and maintain a sufficient system of drainage and conservancy; and
- (c) to cause the public streets to be sufficiently lighted.

(2) When it has been determined that a water-rate, conservancy-rate, or lighting-rate shall be imposed within a municipality the Commissioners shall—

- (a) provide a sufficient supply of water for the domestic use of the inhabitants; or
- (b) provide and maintain a sufficient system of drainage and conservancy; or
- (c) cause the public streets to be sufficiently lighted, as the case may be.

Construction of waterworks, drainage or sewerage works.

279. (1) Subject to the rules made by the ¹[Provincial Government] under section 311 and in accordance with sanction granted under those rules, the Commissioners of any municipality or such Commissioners acting conjointly with any other local authority, may in pursuance of a decision arrived at at a meeting, within or without a municipality,—

- (a) construct waterworks, or drainage or sewerage works or works required for the introduction of a system of lighting by electricity, gas or otherwise, and
- (b) from time to time enlarge, lessen, alter the course of, or otherwise modify or discontinue, close up, or remove the same.

(2) The ¹[Provincial Government] may advance from the public funds on the security of the Municipal Funds and in the case of a joint scheme on the security of the municipalities and other local authorities, if any, concerned therein, the cost of preparing and carrying out any drainage, water-supply, sewerage, or lighting

¹See foot-note 3 on p. 1, ante.

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(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 280, 281.)

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scheme sanctioned by the Government under the provisions of sub-section (1), and such advance shall be recoverable under Local Authorities Loans Act, 1914, and all the provisions of that Act and the rules made thereunder referring to the recovery of loans shall be applicable to such advance.

280. The ¹[Provincial Government] may, on the application of the Commissioners at a meeting or of the local authority acting with them under the provisions of section 279, direct that any works specified in any scheme or joint scheme for the purposes of section 279 shall be executed by an officer to be appointed by the ¹[Provincial Government] and shall fix the remuneration of such officer (provided that the cost of the scheme as sanctioned be not exceeded) and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

Power to appoint an officer to execute the work.

281. (1) If at any time it appears to the ¹[Provincial Government] that the Commissioners of any municipality have made default in providing their municipality or any part of it with proper and sufficient drains or sewers or in providing a good and sufficient supply of water or lighting, having regard to the financial resources of the municipality, and that danger arises from such default to the health or safety of the inhabitants of the municipality or any part of it, the ¹[Provincial Government] may cause a scheme of drainage, sewerage, lighting or water-supply to be prepared by such person as it may depute for the purpose.

Power to compel municipality to provide proper drainage, sewerage, etc.

(2) When a scheme has been prepared for a municipality under sub-section (1), the ¹[Provincial Government] may call upon the Commissioners of such municipality to show cause at a meeting why they should not be required to carry out the scheme.

(3) The ¹[Provincial Government] shall consider any objections and suggestions which may be submitted by the Commissioners and, if satisfied that the execution and maintenance of the scheme will not subject the financial resources of the municipality to any undue strain, may, subject to the rules framed under section 311, sanction the scheme with such modifications, if any, as it may think proper and specify a period during which the scheme shall be carried out.

(4) If the scheme is not carried out within the period fixed, the ¹[Provincial Government] may, by order, appoint some person to carry it out and may direct that the cost of the works including the remuneration of the

¹See foot-note 3 on p. 1, *ante*.

[Ben. Act XV]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 282, 283.)

persons appointed, and of the supervising establishment, the cost of land acquisition and any other incidental charges shall be paid within such time as it may fix from the Municipal Fund, and may, if necessary, direct that any rate or rates authorized under this Act shall be levied or increased (but not so as to exceed any *maximum* prescribed in that behalf) and may further, or as an alternative, advance any sum of money, required in its opinion for the execution of the scheme, from the public funds on the security of the Municipal Fund and such advance shall be recoverable under the Local Authorities Loans Act, 1914, and all the provisions of that Act and the rules made there-
IX of 1914.
under referring to the recovery of loans shall be applicable to such advance.

(5) The person appointed under sub-section (4) may, for the purpose of executing the scheme, exercise any of the powers conferred on the Commissioners by or under this Act, which are specified in that behalf in the order issued under sub-section (4).

Power to compel execution of joint drainage schemes, etc.

282. (1) If the ¹[Provincial Government] is of opinion that the conditions described in sub-section (1) of section 281, prevail in two or more adjoining municipalities, or any part thereof and that, in the interests of efficiency and economy, a joint drainage, sewerage, lighting or water-supply scheme should be prepared for both or all such municipalities or any part thereof, it may cause a joint scheme to be prepared accordingly.

(2) All the provisions of section 281 shall apply *mutatis mutandis* to such joint scheme and the ¹[Provincial Government] shall determine what proportion of the cost of preparing, executing and maintaining such scheme shall be borne by the Commissioners of each municipality concerned.

Extension of drainage schemes, etc.

283. (1) Where the ¹[Provincial Government] causes a scheme to be prepared under section 281 or section 282 and the Commissioners of the municipality or municipalities concerned and the local authority or local authorities of any other area or areas apply to have the scheme extended so as to serve such area or areas, the ¹[Provincial Government] may, by order notify its general approval to such extension, determine what proportion of the cost of preparing, executing and maintaining the scheme shall be paid by such other local authority or local authorities and prescribe conditions for the punctual payment of such proportion.

(2) A copy of such order shall be sent to the Commissioners of each municipality concerned and to such

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems—Secs. 284, 285.)

other local authority or local authorities, and if they request that the proposed extension of the schemes shall be made, the ¹[Provincial Government] shall, subject to the rules made under section 311, finally sanction such extension.

284. If at any time after any joint scheme has been finally sanctioned any dispute arises between the Commissioners and any other local authority concerned in such scheme respecting such matters as supervision, management, maintenance, extension, repairs, alterations, the quantity of water or lighting to be supplied to each municipality or to any area under the control of any other local authority concerned, connection with the mains and the fees charged therefor and the like, a reference shall be made to the ¹[Provincial Government], whose orders shall be final and shall not be questioned in any court:

Disputes as to joint schemes.

²Provided that, if the dispute is between the Commissioners and a Cantonment Authority or the Port Authority of a major port, the orders of the Provincial Government shall be subject to the concurrence of the Central Government.

285. (1) If at any time it appears to the ¹[Provincial Government] that any drainage works, sewerage works, lighting works or water works executed under the provisions of sections 279, 281, 282 or 283 or vested in the Commissioners of any municipality are maintained or worked in an imperfect, inefficient or unsuitable manner, the ¹[Provincial Government] may, by written order, direct the Commissioners of the municipality or municipalities or other local authority or local authorities, within a period specified in the order, to show cause at a meeting why the drainage works, sewerage works, lighting works or water works with all plant, fittings and appurtenances thereof should not be handed over for such period as the ¹[Provincial Government] may fix to the control and management of such person as the ¹[Provincial Government] may appoint.

Power to Provincial Government to take control over imperfect, inefficient or unsuitable drainage work, etc.

(2) If cause is not shown to the satisfaction of the ¹[Provincial Government] within the period specified in the order issued under sub-section (1), the ¹[Provincial Government] may, by order, direct that the drainage works, sewerage works, lighting works or water works with all plant, fittings and appurtenances thereof shall be handed over for such period as it may fix to the control and management of such person as

¹See foot-note 3 on p. 1, *ante*.

²This proviso was inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act XV]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Sec. 286.)

it may appoint. During the period so fixed the complete control and management of the drainage works, sewerage works, lighting works or water works, as the case may be, shall be vested in the person so appointed, who shall engage such establishment for the purpose of maintaining and working such drainage works, sewerage works, lighting works or water works as the ¹[Provincial Government] may from time to time approve. The cost of such establishment and of all materials, implements, coal, stores and every thing necessary for the maintenance and working of the works shall be paid within such period as may be fixed by the ¹[Provincial Government] from the conservancy-rate, lighting-rate or water-rate, as the case may be, and may direct that such rate shall, for this purpose, be increased but not so as to exceed the *maximum* prescribed in that behalf.

(3) If the cost is not so paid, the District Magistrate may proceed as in section 551.

²(4) No action shall be taken under the foregoing provisions of this section in relation to a Cantonment Authority or the Port Authority of a major port without the previous approval of the Central Government.

General provisions relating to the laying and connecting of pipes, sewers and the like.

Power of Commissioners to lay or carry pipes, drains or sewers through private land.

286. (1) The Commissioners may carry any pipe, drain, sewer or channel of any kind for the purpose of providing or of carrying out and establishing or maintaining a system of drainage, sewerage, lighting or water-supply through, across, under or over any street or place, laid out as, or intended for, a street, and after giving reasonable notice in writing to the owner or occupier, into through, across, under, over or up the side of any land or building whatsoever, situate within the limits of the municipality, and, for the purpose of introduction, or distribution of light or water, or for the outfall of water, or for the removal or outfall of sewage, or for drainage outfall, without such limits, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such pipe, drain, sewer or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used:

Provided that no annoyance to the public more than is necessarily caused by the proper execution of the work is created by any such operation: and

¹See foot-note 3 on p. 1, *ante*.

²Sub-section (4) was inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1932.]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 287—289.)

Provided, further, that reasonable compensation shall be paid to the owner or occupier for any damage at the time sustained by him through or in consequence of any such operations.

(2) Whenever the ¹[Provincial Government] has sanctioned any works without the limits of any municipality for bringing light or water into such municipality or for draining or disposing of the sewage of such municipality, the Commissioners may exercise all the powers which by this Act they may exercise within the municipality, in the construction, maintenance and repair of such work throughout the line of country in which such works are situated or through which they are to run.

287. In the event of any pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over, or up the side of any building, such pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

Pipes, drains or sewers laid or carried above surface of ground.

288. Except in cases to which section 293 relates, the Commissioners shall cause not less than one month's notice in writing to be given to the owner or any occupier before commencing any operations under section 286.

Previous notice to be given.

289. (1) Subject to the prescribed conditions and restrictions and to such terms as the Commissioners may from time to time determine, the Commissioners at a meeting may—

Power to permit connection to houses and lands.

(a) on the application of the owner or occupier of any house or land paying the water-rate or lighting-rate, as the case may be, make or cause, or permit to be made, communication or connection from any main, or distribution pipe, belonging to the Commissioners for the purpose of leading water or gas to such house or land, or

(b) on the application of the owner or occupier of any house or land make, or cause or permit to be made, any connection or communication to such house or land from any drain, sewer or channel constructed or maintained by or vested in the Commissioners.

¹See foot-note 3 on p. 1, *ante*.

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 290—295.)

(2) The Commissioners at a meeting may require the amount necessary for the execution through their own agency of any work under this section to be paid or deposited before such work is executed by them.

Power to make or require connections in certain cases.

290. ¹(1) In any case in which a service-pipe from a main supplies water to two or more holdings, the Commissioners may, by written notice, require the owner of such holdings to lay down separate service-pipes for the separate holdings, and the expense of so doing shall be borne by all such owners in such proportions as may be determined by the Commissioners.

Power to establish meters and the like.

291. The Commissioners may establish meters for the purpose of testing the quantity or quality of any gas supplied to the house or land of any person or to or for the use of any person or business.

Attachment of meters.

292. For the purpose of measuring and recording the amount of water consumed, the Commissioners may fix a meter at a convenient point between the holding of the consumer and the municipal main.

Power to enter premises.

293. (1) Any officer authorized in this behalf by the Commissioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land for the purpose of inspecting or repairing any water, gas or other installation and for taking readings of meters connected therewith.

(2) If such officer at any such time is refused admittance into such house or land for the purposes aforesaid, or is prevented from making such examination, the Commissioners may forthwith cut off the supply of gas or water, as the case may be, from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated to women, unless reasonable notice in writing and opportunity is given to enable the women to remove to some part of the premises where their privacy may be preserved.

Presumption as to correctness of meter.

294. Whenever water or gas is supplied under this chapter through a meter, it shall be presumed that the quantity or quality indicated by the meter has been consumed until the contrary is proved.

Cost of providing, attaching and replacing meter.

295. The expense of providing attaching and replacing a meter shall be borne by the person requiring the supply or, if the service-pipe or connection has been laid down or made before the commencement of

¹See the figure and brackets "(1)" are unnecessary.

of 1932.]

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 296—300.)

this Act, by the owner of the house or land, except in the case of a special agreement to the contrary between the owner and the occupier. Such expense shall be recovered in one or more instalments according as the Commissioners think proper:

Provided that the Commissioners shall bear the cost of maintaining meter in good order and replacing a meter which is out of order or under repair owing to an inherent defect and not owing to its having been tampered with.

296. When any meter attached to the service-pipe or connection of any house or land is out of order or under repair, the Commissioners shall forthwith replace it by another meter. Commissioners to replace damaged meter.

297. (1) If the owner or occupier of any house or land to which water or gas is supplied through a meter desires to have the meter tested, he may send a written application to the Commissioners, and such application shall be accompanied by a fee of two rupees. Testing of meter.

(2) Upon receipt of any such application and fee the Commissioners shall forthwith cause such meter to be tested at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to be incorrect by more than two *per cent.*, the said fee shall be returned to the person who sent it.

298. (1) No person shall fraudulently—

(a) alter the index to any meter, or prevent any meter from duly registering the quantity or quality of water or gas supplied, or

(b) abstract or use water or gas before it has been registered by a meter, set up for the purpose of testing the quantity or quality of the same.

Fraud in respect of meter.

(2) Where there has been any such alteration, prevention, abstraction or use the existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

299. No person shall wilfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter. Injuring meter or fittings.

300. The Commissioners at a meeting shall from time to time determine what supply of water for Maintenance of supply of water.

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 301, 302.)

domestic purposes shall be maintained in their service-pipes and mains, and during what hours such supply shall be continued.

Supply for
business.

301. (1) The Commissioners at a meeting may supply and may at any time after giving reasonable notice cease to supply water for purposes other than domestic purposes.

(2) For all water supplied under sub-section (1) payment shall be made at such rates and on such conditions as the Commissioners at a meeting may from time to time prescribe.

(3) No person shall, without the written permission of the Commissioners, use, for other than domestic purposes, water supplied under this chapter for domestic purposes.

Free supply of
certain quantity
of water for
domestic
purposes.

302. (1) The occupier of every premises to which water is supplied by the Commissioners under this chapter shall be entitled to have, for each rupee paid quarterly as the water-rate on account of such premises and free of further charge such quantity of water per quarter for domestic purposes as the Commissioners at a meeting may from time to time prescribe.

(2) All water supplied in excess of the free allowance to which an occupier is entitled under sub-section (1) shall be paid for by him at a rate to be fixed from time to time by the Commissioners at a meeting.

(3) If such premises are ordinarily occupied by two or more persons holding in severalty, the owner shall be liable for water supplied in excess as referred to in sub-section (1); but such owner shall be entitled to recover rateably from the several occupiers any amount so paid.

(4) Every incoming or outgoing occupier of any metered premises shall at least three clear days before entering into the occupation of or vacating such premises, as the case may be, cause a written notice to be served upon the Commissioners stating the date on which he intends to occupy or vacate the premises and requiring the Chairman to cause the meter to be read for the determination of the liability, if any, for any excess consumption of filtered water on the date of such occupation or the date of such vacation of the premises, as the case may be.

(5) Upon receipt of such notice the Chairman shall cause the meter to be read and furnish such occupier with a statement of such meter reading.

(6) The outgoing occupier shall ordinarily be liable to pay for any excess supplied up to the date of his vacating the premises;

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(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 303—305.)

and the incoming occupier's liability for any excess consumption of filtered water shall ordinarily accrue from the commencement of his occupation :

Provided that where no written notice is delivered to the Commissioners under sub-section (4), the Commissioners shall be entitled to realise from such incoming occupier the full proportionate amount of the charges for excess water consumed, on the basis of the next quarterly or other reading of the meter made after the occupation of the incoming occupier, or such less amount as the Commissioners may think fit, regard being had to the number of days in any quarter during which the premises were occupied by such incoming occupier, the number of inmates during that period and the amount of free allowance to which such occupier may be entitled under sub-section (1).

303. (1) Before a connection for the supply of water from the distribution mains of the Commissioners to any premises is sanctioned, the Commissioners may cause all the works, pipes and fittings within the said premises to be inspected by an officer appointed by them in this behalf.

Inspection of works and pipes before connection.

(2) The cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the Commissioners at a meeting shall from time to time direct.

(3) Until such officer has certified to the Commissioners that the works, pipes and fittings have been executed and put up in a satisfactory manner a connection with the Commissioners' service pipes shall not be permitted.

(4) Notwithstanding anything contained in this section if at any time after a certificate has been granted under sub-section (3) the Commissioners are satisfied that any work, pipe or fittings is unsuitable or results in a waste of water, the Commissioners may require the person who provided such work, pipe or fitting, or the owner of the premises, to alter or add to them at his own cost.

304. The Commissioners at a meeting may with the sanction of, and on such terms (if any) as may be approved by the ¹[Provincial Government], supply water to a local authority or other person outside the municipality.

Permission to person outside the municipality to take water.

305. No person—

(i) shall take, or cause to be taken for use outside the limits of the municipality water supplied by the Commissioners, without the

Water not to be taken out of municipality or wasted.

¹See foot-note 3 on p. 1, ante.

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 306—309.)

permission of the Commissioners given under section 304 or in contravention of any conditions which they may prescribe;

- (ii) being the occupier of any premises to which water is supplied by the Commissioners under this chapter, shall, from negligence or other circumstances under the control of the said occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of repair so as to cause waste of water;
- (iii) shall otherwise cause waste of water supplied by the Commissioners;
- (iv) shall unlawfully flood, draw off, divert or take water from, any water-works belonging to, or under the control of, the Commissioners, or from any water or streams by which such water-works are supplied.

Owner to bear the cost of keeping works in repair.

306. Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expenses of keeping all works connected with the supply of water to such premises in substantial repair, and if he fails to do so, the occupier may, after giving the owner three days' notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this chapter to the municipality in which the said premises are situated.

Estimate and specification of works to be sent.

307. No work for introducing a supply of water to any premises shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

Power to take charge of private connections.

308. The Commissioners at a meeting may, if they think fit, take charge of all communication-pipes and fittings of any existing private water-works connected with the municipal water-supply up to and including the stop-cock nearest the supply-main for the said works, and such communication-pipes and fittings shall thereafter vest in and be maintained at the expense of, the Commissioners as municipal water-works.

Power to cut off or to turn off supply of water to premises.

309. (1) Notwithstanding anything contained in this chapter the Commissioners may cut off the connection between any of their water-works and any premises to which water is supplied from such works, or may

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(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Sec. 309.)

turn off such supply, in any of the following cases, namely:—

- (a) if the premises are unoccupied; or
- (b) if, after receipt of a written notice from the Commissioners requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water or to permit the same to be used in contravention of this Act or any rule or by-law, made thereunder; or
- (c) if the occupier of the premises contravenes section 298, section 299, sub-section (3) of section 301 or section 305; or
- (d) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by any officer of the Commissioners authorised by them in this behalf, to be out of repair to such an extent as to cause so serious a waste or contamination of water that in the opinion of the Chairman immediate prevention is necessary; or
- (e) if the use of the premises for human habitation has been prohibited under section 366, from the date from which the premises are to be vacated under the order of the Magistrate; or
- (f) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or
- (g) if by reason of a leak in the service-pipe or fitting damage is caused to the public street and immediate ¹[prevention is] necessary:

Provided as follows:—

- (i) water supplied for flushing privies or urinals shall not be cut off or turned off;
- (ii) water shall not be cut off or turned off in any case referred to in clause (c) unless written notice of not less than forty-eight hours has been given to the occupier of the premises.

(2) The expense of cutting off the connection or of turning off the water and of restoring the same, as determined by the Commissioners in any case referred to in sub-section (1), shall be paid by the owner or occupier of the premises:

¹These words were substituted for the word "preventions" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

(Chapter VIII.—Water-supply, Lighting, Drainage and Sewerage Systems.—Secs. 310, 311.)

Provided that no charge for such expense shall be made in the cases mentioned in clause (a) and clause (e) of the said sub-section.

(3) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Application of
the Indian
Electricity
Act, 1910.

310. Notwithstanding anything in this chapter all matters relating to the generation, transmission, supply or use of electrical energy in a municipality shall be regulated by the provisions of the Indian Electricity Act, 1910.

Power to make
rules.

311. The ¹[Provincial Government] may make rules to regulate—

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- (a) the preparation of plans and estimates for water-works or for the introduction of a system of lighting by electricity, or gas, or of drainage or sewerage, where such works or system are or is to be partly or wholly constructed or carried out at the expense of the Commissioners;
- (b) the power of the Commissioners or the ¹[Provincial Government] to accord sanction to such plans and estimates;
- (c) the publication in the ²[*Official Gazette*] of the particulars of, and the nature of any such, work or scheme, its cost, and the manner in which it is to be financed and carried out;
- (d) the size and nature of water-works, mains, pipes, drains, sewers or channels to be constructed or laid by the Commissioners for the supply of water or gas, or for drainage or sewerage;
- (e) the maintenance of municipal water-works and of pipes and fittings in connection therewith;
- (f) the size and nature of the stand-pipes or pumps to be erected by the Commissioners and of the ferrules and all pipes, stand-pipes, stop-cocks, taps, hydrants and other fittings, whether within or outside any premises, that may be prescribed or necessary for the regulation of the supply and use of water or gas;
- (g) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;

¹See foot-note 3 on p. 1, *ante*.

²See foot-note 1 on p. 6, *ante*.

of 1932.]

(Chapter IX.—Buildings.—Sec. 312.)

- (h) the periodical analysis by a qualified analyst of the water supplied by the Commissioners;
- (i) the conservation of, and the prevention of injury or contamination to, sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the municipality;
- (j) the manner in which connections with water-works or with the lighting, drainage or sewerage system of the Commissioners shall or may be constructed, altered or maintained, the fees to be levied for such connections and the person by whom they shall be paid, and the agency to be employed for such construction, alteration or maintenance;
- (k) the rates at which the charges for water or gas supplied may be levied by the Commissioners and the use, maintenance and testing of meters and the rebate, if any, to be allowed where a meter is found to be defective;
- (l) the regulation of all matters and things connected with the supply and use of water or gas, and the turning on and turning off and preventing the waste of water or gas; and
- (m) any other matter relating to the supply of water or gas or of drainage or sewerage in respect of which this Act makes no provision or insufficient provision and further provision is, in the opinion of the ¹[Provincial Government], necessary:

Provided that in any rules made under this section regarding the construction or carrying out of any works for the supply of water or gas, or for drainage or sewerage by the Public Health Department provision shall be made that the Commissioners of the municipality concerned shall have an opportunity of seeing the terms of the contract for the execution of works, before it is executed.

CHAPTER IX.

Buildings.

Application of Schedule VI.

312. (1) The ¹[Provincial Government] may, by notification declare that Schedule VI or any part thereof shall be in force in such municipalities as may be

Application of
Schedule VI,
etc.

¹See foot-note 3 on p. 1, *ante*.

(Chapter IX.—Buildings.—Secs. 313—315.)

specified in the notification and may, on the application of the Commissioners of a municipality, cancel or modify such notification in respect of any municipality so specified.

(2) The provisions contained in sections 315, 317 to 327 and 329 shall not apply to any municipality, unless and until they have been extended thereto by a notification issued by the ¹[Provincial Government] when Schedule VI or any part thereof is brought into force under sub-section (1):

Provided that in the case of any municipality to which the provisions of Part VI of the Bengal Municipal Act, 1884, corresponding to the provisions of sections 315, 317 to 327 and 329 are in force immediately before the commencement of this Act, all the said sections shall be in force in such municipality without being expressly extended thereto.

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1884.

Building-sites and erection of buildings.

Use of building-sites and erection of buildings.

313. No piece of land shall be used as a site for the erection of a building and no building shall be erected otherwise than in accordance with the provisions of this chapter and of any rule or by-law made under this Act, relating to the use of building sites or to the erection of buildings, as the case may be, and in municipalities where Schedule VI or part thereof is in force, in accordance with that schedule or part thereof.

Commissioners to determine site of proposed masonry building.

314. If any question arises as to what, for the purposes of this Act, shall be deemed to be the site of any proposed masonry or framed building, the Commissioners at a meeting shall determine the same, and their decision shall be final.

Masonry building not to be erected without special permission in certain cases.

315. (1) Save with the special permission of the Commissioners at a meeting, no building (other than a hut) shall be erected unless—

- (a) the site of such building abuts on a public street, or a projected public street or a private street duly sanctioned and constructed in accordance with the provisions of this Act, or existing before the commencement of this Act, or
- (b) there is access to the building from any such street by a passage or pathway, appertaining to such site, and not less than six feet wide at any part.

(2) No building shall be erected so as to deprive any masonry or framed building of the means of access as provided in this section.

¹See foot-note 3 on page 1, ante.

of 1932.]

(Chapter IX.—Buildings.—Secs. 316—318.)

Exemptions.

316. The following buildings shall be exempted from the operation of sections 315, 317 to 327 and 329, namely:—

Exemptions.

- (a) any building erected and used, or intended to be erected and used, exclusively for the purpose of accommodating a pump for pumping water to the highest stories of a building, or exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, if the building be wholly detached from, and at a distance of at least ten feet from, the nearest adjacent building;
- (b) any building erected or intended to be erected by, or with the sanction of the Commissioners, for use solely as a temporary hospital for the reception and treatment of persons suffering from any infectious or contagious disease; and
- (c) any hoarding or like means of protection (other than a masonry wall) which the owner of any premises certifies to the Chairman not less than seven days after its erection to have been erected for the purpose of preventing the threatened acquisition of any easement over his own premises or any portion thereof, provided that the stability of such hoarding or other means of protection is certified by the Chairman.

Application for sanction.

317. Every person who intends to erect a building shall first submit an application in the form prescribed in Schedule VI to the Commissioners together with such plans, specifications and other particulars as may be prescribed in that schedule or in any rule or by-law made in this behalf.

Application to erect building to be submitted in the prescribed form.

318. (1) Within thirty days, or in the case of huts, within fifteen days after the receipt of any application made under section 317, or of any information or documents, which the Commissioners may reasonably require the applicant to furnish before deciding whether permission shall be granted to execute any work under the aforesaid section, the Commissioners shall, by written order, either—

Permission to execute work when to be given or refused.

- (a) grant permission conditionally or unconditionally to execute the work, or

(Chapter IX.—Buildings.—Secs. 319—321.)

(b) refuse, on one or more of the grounds mentioned in section 322, to grant such permission.

(2) When the Commissioners grant permission conditionally under clause (a) of sub-section (1), they may in regard thereto impose such conditions, consistent with this Act, as they may think fit.

(3) Where permission has been refused under sub-section (1), an appeal shall lie to the Commissioners at a meeting, provided that no order passed by the Commissioners at a meeting in respect of such appeal shall relax the provisions of section 322 or of Schedule VI or of any rule or by-law made under this Act.

Permission to be implied if Commissioners default in coming to a decision.

319. If within the period prescribed by section 318 the Commissioners have neither granted nor refused to grant permission to execute any work, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or of Schedule VI or of any rule or by-law applying thereto.

Notice after completion of work.

320. Within one month after the completion of the erection of a new building (other than a hut) the owner of the building shall send to the Commissioners a written notice of the fact of such completion.

Inspection of work requiring sanction.

321. (1) The Chairman or any other person authorized by the Commissioners in this behalf may, at any time, and without notice, inspect any work in respect of which an application is required under section 317—

(a) while under construction, or

(b) within one month of the receipt of the notice of completion sent under section 320, or, in default of such notice, at any time after completion.

(2) If, on making any inspection under sub-section (1) the Chairman or other person so authorized finds that the building inspected is being or has been erected—

(a) subject to the provisions of section 319, otherwise than in accordance with the plans thereof which the Commissioners have approved, or

(b) in such a way as to contravene any of the provisions of this Act or of Schedule VI or of any rule or by-law made in this behalf,

the Chairman may, by written notice, require the owner of the building either to make such alterations as may

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(Chapter IX.—Buildings.—Sec. 322.)

be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, as the case may be, or to appear before the Commissioners at a meeting and show cause why such alterations should not be made.

(3) If such owner does not appear and show cause under sub-section (2) he shall be bound to make the alterations specified in such notice.

(4) If such owner appears and shows cause under sub-section (2), the Commissioners shall, after hearing him, either—

(a) cancel the notice issued under that sub-section, or

(b) confirm the same, subject to such modifications (if any) as they may think fit.

322. The only grounds on which permission to erect a building may be refused are the following, namely:—

Grounds on which permission to erect a masonry building may be refused.

(a) that the work, or any of the particulars comprised in the plans or specifications would contravene some specific provision of this Act or of Schedule VI or of some specific rule or by-law made in this behalf; or

(b) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule VI or in any rule or by-law made in this behalf; or

(c) that any of the documents referred to in Schedule VI or in any rule or by-law made in this behalf have not been signed in the manner prescribed; or

(d) that any information or documents required by the Commissioners under this Act or Schedule VI or under any rule or by-law made in this behalf has or have not been duly furnished; or

(e) where the provisions of the Calcutta Improvement Act, 1911, have been extended to any municipality that, in the case of a new building falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained; or

(Chapter IX.—Buildings.—Secs. 323—325.)

- (f) that the applicant has not satisfied the Commissioners in regard to any objections which may have been taken on any of the grounds mentioned in this section, to the grant of the said permission.

Power as to inflammable structures.

323. (1) The Commissioners at a meeting may, by public notice, direct that, within certain limits to be fixed by them, the roofs and external walls of huts or other buildings shall not be made or renewed with grass, mats, leaves or other highly inflammable materials without their consent in writing.

(2) The Commissioners at a meeting may, at any time by written notice, require the owner of any building which has an external roof or wall made of any such materials as aforesaid to remove such roof or wall within such reasonable time as shall be specified in the notice, notwithstanding that a public notice under subsection (1) has not been issued or that such roof or wall was made with the consent of the Commissioners or before the issue of such public notice, if any:

Provided that in the case of any such roof or wall in existence before the issue of such public notice or made with the consent of the Commissioners, they shall make compensation for any damage caused by the removal which shall not exceed the original cost of constructing the roof or wall.

Power to Commissioners to cancel permission on the ground of material misrepresentation by applicant.

324. If, at any time permission to erect any masonry or framed building has been given, and the Commissioners at a meeting are satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the application made under section 317, or in the plans, elevations, sections or specifications submitted therewith in respect of such building, they may cancel such permission, and any work done, thereunder shall be deemed to have been done without permission.

Duration and expiry of permission to erect a building.

325. (1) A permission to erect a building, granted under this chapter shall, unless it is renewed on an application made to the Commissioners for this purpose, continue only for one year after the date on which it is granted, unless the work of erection has been commenced within that period and in any case shall not continue for a period longer than two years from the said date unless it is so renewed.

(2) Any person who erects a building or continues the work of erection of a building, when the permission granted under this chapter has expired, shall be deemed to erect such building or to continue such work without sanction.

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(Chapter IX.—Buildings.—Secs. 326, 327.)

Application of Act to alterations of, and additions to, buildings.

326. (1) The provisions of—

(a) this chapter,

(b) Schedule VI, and

(c) any rules or by-laws made under this Act,

relating to the erection of buildings, shall also apply to every material alteration of, or addition to, any building, but shall not apply to necessary repairs not involving any of the works which constitute a material alteration or addition.

(2) An alteration or addition in or to a building shall for the purposes of this chapter and of Schedule VI and of any rule or by-law, be deemed to be material if—

(a) it increases or diminishes the height of, the area covered by, or the cubical capacity of the building, or any part thereof, or reduces the height, area, or cubical capacity of any room in the building below the minimum prescribed in Schedule VI, or in any rule or by-law; or

(b) it affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation or hygiene; or

(c) it converts into a place for human habitation a building or part of a building originally constructed for other purposes; or

(d) it is an alteration or addition declared by Schedule VI or by any rule or by-law made in this behalf to be a material alteration or addition.

(3) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position, safety, stability, use, sanitary condition or dimensions of a building or room, such question shall be referred to the Commissioners at a meeting and the decision of the Commissioners shall be final.

327. (1) In alteration of, addition to, or cancellation of Schedule VI, the '[Provincial Government] may make rules—

Application of Act to alterations of, and additions to, buildings.

Rules.

(a) for the regulation or restriction of the use of land as sites for building, and

¹See foot-note 3 on p. 1, *ante*.

[Ben. Act XV]

(Chapter IX.—Buildings.—Secs. 328, 329.)

(b) for the regulation and restriction of building and of alterations in, or additions to, buildings.

(2) When Schedule VI has been so altered, added to or cancelled, any reference made in this Act to the said schedule shall be construed as a reference to the schedule as amended under sub-section (1) or, if the schedule has been cancelled, to the rules substituted therefor.

Special provisions in respect of less advanced municipalities.

328. (1) The Commissioners of any municipality to which the provisions of Schedule VI are not extended under section 312 shall at a meeting, if the '[Provincial Government] so requires, provide by means of by-laws for the control of the erection of buildings and of material alterations and additions to buildings to give effect to the provisions of this Act and of that schedule in this behalf to such extent as local circumstances permit and subject to such modifications as local circumstances may require.

(2) Where the provisions of Schedule VI are extended only in part to any municipality the Commissioners shall, at a meeting, if the '[Provincial Government] so requires, regulate by means of by-laws the matters that are regulated by that part of Schedule VI which is not extended to such municipality.

Powers to make by-laws regulating buildings.

329. (1) The Commissioners of a municipality to which the provisions of Schedule VI have been extended under this Act in whole or in part may, and when required by the '[Provincial Government] shall, make at a meeting by-laws, consistent with this Act and Schedule VI (or the part thereof extended to the municipality) applicable to building-sites or to buildings generally or to any class of buildings within the whole or any part of the municipality, and may by such by-laws—

- (a) determine the plans, specifications and other documents or particulars to be furnished with any application made for permission to construct, add to or alter house-drains, privies or urinals;
- (b) declare an alteration or addition of any specific description to be a material alteration or addition although not falling within the scope of clauses (a), (b) or (c) of sub-section (2) of section 326;
- (c) prescribe that, on payment of fees in accordance with such scale as is specified in this

¹See foot-note 3 on p. 1, ante.

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(Chapter IX.—Buildings.—Sec. 329.)

behalf, plans and specifications shall be obtainable from the Commissioners or from an agency prescribed by the Commissioners;

- (d) prescribe the type or description of buildings which may or may not, and the purposes for which a building may or may not, be erected in any specified area or areas;
- (e) prescribe that builders and surveyors shall be licensed and that the erection of buildings shall not be permitted except by licensed builders and surveyors;
- (f) prescribe the fees, to be paid by builders and surveyors for obtaining a license and the qualifications to be possessed by them; and
- (g) prescribe, with reference to the election of buildings, all or any of the following matters:—
 - (i) the materials and method of construction to be used for external and party walls, roofs and floors;
 - (ii) the regulation of sites for buildings, and the materials and method of construction of fireplaces, chimneys, drains, privies, urinals and cesspools;
 - (iii) the ventilation and flushing of drains, latrines, urinals and cesspools, and the provision of access thereto from streets, and where a sewerage system has been provided, the connection of service privies with a sewer and the method of the connection;
 - (iv) the proportion of any building-site, which shall not be built over, the amount of space to be left at the sides and back of any building and the area of courtyards in proportion to the floor area of rooms abutting thereon;
 - (v) the height of any building or portion of a building in relation to the width of the street or streets on which it abuts and to the space left open at the back of the building and forming a part of the site, and the height of any building or portion of a building abutting on a courtyard; the level, drainage and paving of courtyards;
 - (vi) the width of foundation, height of plinth, and stability of structure;

(Chapter IX.—Buildings.—Sec. 330.)

- (vii) the minimum floor area, minimum height, and ventilation of rooms used or intended to be used for human habitation;
- (viii) any other matter affecting the ventilation or sanitation of the building;
- (ix) the regulation by specific rules of special classes of buildings in any of the above matters;
- (x) the laying out of huts in a *bustee* in accordance with alignment lines, prescribed and demarcated on the ground;
- (xi) the distance to be kept open between huts and alignment lines;
- (xii) the means to be provided for egress from public buildings in case of fire;
- (xiii) regulating in any manner not specifically provided for in this Act, the erection of any enclosure, wall, fence, tent, awning or other structure, of whatsoever kind or nature (other than a *hogla* or similar kind of temporary shed erected on ceremonial festive occasions), on any land within the limits of the municipality; and
- (xiv) special rules in respect of any of the foregoing matters for any particular type or class of buildings which are used or which it is intended to use for any particular purpose.

(2) By-laws made by the Commissioners of a municipality to which the provisions of Schedule VI have not been extended or have only been extended in part, shall be subject to the approval of the '[Provincial Government]' and may provide for any of the matters specified in clauses (a) to (g) of sub-section (1) and also for the regulation of building-sites within the municipality, but shall not be inconsistent with any portion of this Act which applies to such municipality or with any portion of Schedule VI or any rule made thereunder which has been extended thereto.

Order for demolition or alteration of buildings in certain cases.

330. (1) If the Commissioners are satisfied—

(a) that the erection of any building—

(i) has been commenced without obtaining their written permission under section 318 otherwise than under the provisions of section 319, or

¹See foot-note 3 on p. 1, *ante*.

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(Chapter IX.—Buildings.—Sec. 330.)

- (ii) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or after such permission has been lawfully withdrawn, or
- (iii) is being carried on or has been completed in breach of any provision contained in this Act or in Schedule VI or in any rules or by-laws made in this behalf or of any condition, modification, direction or requisition lawfully given or made under this Act or Schedule VI or under such rules or by-laws, or
- (b) that any material alteration of, or addition to, any building has been commenced or is being carried on or has been completed in breach of any provision contained in this Act or Schedule VI or in any rules or by-laws made in this behalf, or
- (c) that any alterations required by any notice issued under sub-section (2) of section 321, have not been duly made,

they may, in addition to any prosecution that may be instituted under this Act, apply to a Magistrate and such Magistrate may make an order directing that such erection, alteration, or addition, as the case may be, or so much thereof as has been executed unlawfully as mentioned in clauses (a), (b) or (c), or that any structure specified in the application or plans or specification submitted under section 317 as a structure to be demolished or altered before the new building was erected or the material alterations or additions were made shall—

- (i) be demolished by the owner thereof or altered by him to the satisfaction of the Commissioners, as the case may require, or
- (ii) be demolished or altered by the Commissioners at the expense of the said owner.

(2) The Magistrate may make any order under this section notwithstanding the fact that a valuation of such building has been made by the Commissioners under Chapter V for the assessment of any rate or rates, but shall not make any such order without giving the owner of the building to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence.

(Chapter IX.—Buildings.—Sec. 331.)

Order for
demolition or
alteration of
buildings in
other cases.

331. (1) In any of the following cases, namely:—

- (a) if the owner of any building erected or added to between a street alignment and the building-line fails to remove such building or addition when called upon to do so under section 218, or
- (b) if any person who makes any additions to a building in pursuance of an agreement executed under sub-section (4) of section 218, fails to remove such additions when called upon to do so, or
- (c) if the owner of any building erected or added to under the proviso to sub-section (1) of section 218, fails to remove such building or addition when called upon to do so, or
- (d) if, within the period prescribed in any notice requiring the owner or occupier of a building to comply with any condition on which the erection of any verandah or other projection was permitted under sub-section (2) of section 235, such condition is not complied with, or
- (e) if, within the period prescribed in any notice issued under sub-section (4) of section 235, requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or
- (f) if, within the period prescribed in any notice issued under sub-section (2) of section 323, requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or
- (g) if the owners or occupiers neglect to execute any works or to take any measures required by any notice issued on them under sections 263, 364, 365, 367 or 380,

the Commissioners may in addition to any prosecution that may be instituted under this Act, apply to a Magistrate, and such Magistrate may make an order directing that the projection, building, portion of the building, block of buildings, verandah, fixture, additions, roof or wall, or huts, as the case may be, shall—

- (i) be demolished by the owner thereof or altered by him to the satisfaction of the Commissioners, as the case may be, or
- (ii) be demolished or altered by the Commissioners at the expense of such owner.

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(Chapter IX.—Buildings.—Chapter X.—Bustees.—
Secs. 332—334.)

(2) The Magistrate may make any order under this section notwithstanding the fact that a valuation of such building has been made by the Commissioners under Chapter V for the assessment of any rate or rates, but shall not make any such order without giving the owner of the structure to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence.

332. Notwithstanding anything contained in section 532 or section 533 no prosecution for an offence referred to in section 330 or section 331 shall be instituted without the order or consent of the Commissioners at a meeting and the Commissioners before passing such order or giving such consent shall give to the owner or occupier of the building an opportunity of showing cause why such prosecution should not be instituted.

Institution of prosecutions for offences referred to in section 330 or section 331.

333. (1) In any case in which the erection of a new building, or any other work referred to in section 330 or section 331, has been commenced, or, is being carried on unlawfully as mentioned in those sections, the Commissioners may, by written notice, require the person carrying on such erection or other '[unlawful] work to discontinue the same, pending the decision of a Magistrate on an application to be made to him under that section.

Power of Commissioners to stop erection of new buildings in certain cases.

(2) If any notice issued under sub-section (1) is not duly complied with, the Commissioners may, with the assistance of the police if necessary, take such steps as they may deem needful in order to stop the continuance of the unlawful work.

(3) If it appears to the Commissioners that it is necessary in order to prevent the continuation of the unlawful work, to depute any police or municipal officer to watch the premises, the cost of providing the same shall be borne by the person to whom the said notice was addressed.

CHAPTER X.

Bustees.

Preliminary.

334. The provisions contained in this chapter shall not apply to any municipality, unless and until they have¹ wholly or in part, been extended thereto by a notification issued by the² [Provincial Government] in this behalf:

Application of Chapter X.

¹This word was substituted for the word "unlawfully" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²The word "been" was omitted, *ibid*.

³See foot-note 3 on p. 1, *ante*.

[Ben. Act XV

(Chapter X.—Bustees.—Secs. 335, 336.)

Provided that in the case of any municipality to which the provisions of Part VI of the Bengal Municipal Act, 1884, corresponding to any of the provisions of this chapter are in force immediately before the commencement of this Act, all the said provisions of this chapter shall be in force in such municipality without being expressly extended thereto.

Ben. Act
III of
1884.

Power to
Commissioners
to define limits
of bustee.

335. (1) The Commissioners at a meeting may define the external limits of any *bustee*, and may from time to time alter such limits.

(2) None of the powers conferred by any of the following sections of this chapter shall be exercised in respect of—

- (a) any *bustee* the total area of which, as comprised within the limits defined under sub-section (1), is less than two *bighas*, or
- (b) any masonry building existing in a *bustee* at the time when a standard plan is approved or alignments are prescribed under the provisions of this chapter for such *bustee* as the case may be.

Sanitary measures with regard to bustees.

Power of Com-
missioners as
inspection of
huts.

336. (1) If it appears to the Commissioners at a meeting that the condition of any *bustee* is insanitary or attended with risk of disease to the inhabitants of the neighbourhood, by reason of the manner in which the huts are constructed or crowded together, or of want of drainage, the impracticability of scavenging or for any other reason, they may after giving notice to the owners of the *bustee* cause the locality to be inspected by two persons appointed in this behalf, one of whom shall be registered medical practitioner or a person holding the diploma of Public Health and the other an engineer.

(2) The said persons shall forthwith—

- (a) sign and submit a written report on the insanitary condition of the said *bustee*,
- (b) annex to the report a plan approved by them as the standard *plan* of such *bustee*, and
- (c) specify in a schedule to be attached to the said report, as the improvements considered necessary to remove or abate the insanitary condition of the *bustee*,—
 - (i) the huts which should, wholly or in part, be removed;
 - (ii) the streets, passages, drains and sewers which should be constructed;

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(Chapter X.—Bustees.—Secs. 337, 338.)

- (iii) the means of lighting, water-supply, common bathing arrangements and common privy accommodation to be provided for the use of tenants;
- (iv) the tanks, wells and low lands which should be filled up; and
- (v) any other improvements they consider necessary in order to remove or abate the insanitary condition of the *bustee*.

A report (together with the schedule annexed hereto) made and signed under this section shall be sufficient evidence of the result of such inspection.

337. On receipt of the said report, the Commissioners at a meeting after hearing the objections (if any) of the owners of the *bustee* in respect of which the report has been made may approve the plan and schedule after making such modifications (if any) therein as they may think fit and may require the said owners or the owners or occupiers of the huts referred to in sub-clause (i) of clause (c) of sub-section (2) of section 336, or both of the owners of the *bustee* and the owners and occupiers of the huts, to carry out and execute, within a time to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid schedule or any portion thereof, respectively.

Power to serve notice.

338. When any improvements required by a notice under section 337 are carried out by the Commissioners under the provisions of this Act, all expenses incurred thereby, including such reasonable compensation as the Commissioners at a meeting may think fit to pay the owners or occupiers of huts removed, shall be paid by the owners of the *bustee*, to the Commissioners, and shall constitute a charge upon such *bustee* :

Payment of expenses incurred in carrying out improvements.

Provided that, notwithstanding anything contained elsewhere in this Act, if it appears to the Commissioners at a meeting that any such owner is unable, by reason of poverty, to pay such expenses, or any portion thereof, in the case of expenses relating to work, which should in the opinion of the Commissioners have been done by the owners or occupiers of huts within the *bustee*, they may order the same or any portion thereof to be paid out of the Municipal Fund, and in the case of expenses, which should be paid by the owner of the *bustee*, they may order the same or any portion thereof to be advanced out of the Municipal Fund, but thereafter to constitute a charge upon such *bustee*.

(Chapter X.—Bustees.—Secs. 339—341.)

Disposal of
material of huts
pulled down.

339. (1) If in carrying out any improvements required by a notice under section 337, the Commissioners cause any hut or portion of a hut to be pulled down, they shall—

- (a) cause the materials of such hut or portion of a hut to be given to the owner of the hut, if such owner elects to take them, or
- (b) if the owner does not elect to take the materials, or if the owner be unknown or the title to the hut be disputed, cause such materials to be sold, and hold in deposit the proceeds of the sale, together with any sum awarded as compensation under section 338.

(2) Any amount held in deposit under clause (b) of sub-section (1) shall be so held by the Commissioners until any person obtains an order from a competent Court for the payment to him of such amount.

Power to
purchase or
acquire
masonry
buildings or
lands in bustee.

340. (1) Any masonry building in a bustee, and any land appertaining to such building which it may be necessary to purchase or acquire for the purpose of making the streets or of passages, or of effecting any of the improvements specified in the schedule referred to in section 336, shall be shown in the standard plan referred to in that section, and the Commissioners may at any time after the receipt of the report made under that section, purchase or acquire—

- (a) any such masonry building, or
- (b) any land appertaining to such building, or
- (c) any such building, together with the land appertaining thereto or any portion thereof,

which is mentioned in that behalf in the schedule.

(2) Save as is provided in this section none of the powers conferred under the provisions of this chapter shall be exercised in respect of any building or land referred to in clauses (a), (b) or (c) of sub-section (1), but the fact that a masonry building is situated in a bustee shall not prevent action being taken with reference to such bustee under the provisions of this chapter.

Streets and
passages shown
in standard plan,
if not public
streets, to
remain private.

341. (1) Every street or passage in a bustee which is shown in a standard plan approved under this chapter for that bustee and which is not already a public street shall, unless the Commissioners and the owners of the land on which such street or passage is situated otherwise consent as provided in section 229, be deemed to be a private street; and the portion thereof which falls on the land of each owner shall belong to such owner:

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(Chapter X.—Bustees.—Secs. 342, 343.)

Provided that any portion of any such street or passage which is situated on land purchased or acquired by the Commissioners under section 340 shall remain the property of the Commissioners.

(2) Every such private street shall, at all times, be kept open for scavenging purposes and for all other purposes of this Act in such manner as the Commissioners may require, and shall also be kept open for the use of all the tenants of the *bustee*:

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908, no use of any such street shall, by reason of any lapse of time, be held to confer a right-of-way on the public so as to bring the street within the definition of a public street.

IX of
1908.

342. The bathing arrangements and privy accommodation in a *bustee* which are shown in the standard plan approved under this chapter for such *bustee* as being common to the use of all or some of the tenants of the *bustee*, shall at all times be kept available for the use of such tenants:

Bathing arrangements and privy accommodation in *bustee*, as shown in standard plan, to be kept open for use for tenants.

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908, if at any time the land on which any such bathing arrangements or privy accommodation are provided ceases to form part of such *bustee*, no such use shall, by reason of any lapse of time, be held to confer any right on any person so as prejudicially to affect the rights of the owner of such land.

343. (1) The owner of any land in a *bustee* for which a standard plan has been approved under this chapter shall maintain in proper order and repair, to the satisfaction of the Commissioners, such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works on such land as may be shown in the plan.

Owner of land in *bustee* to maintain certain conveniences on his land.

(2) The Commissioners may, at any time, cause a written notice to be served upon such owner requiring him so to maintain such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works:

Provided that any convenience made by the owner of a hut for his own use shall, subject to such notice as aforesaid, be maintained by him, and not by the owner of the *bustee*.

(Chapter X.—Bustees.—Sec. 344.)

Power to owner
to take land out
of the category
of bustee in
certain cases.

344. (1) The owner of any land included in a *bustee* and forming a separate holding may, at any time, whether or not a standard plan has been prepared for the *bustee*, notify the Commissioners in writing that he intends to remove all the huts standing on such land.

(2) The receipt of any such notice shall not debar the Commissioners from approving a standard plan of such *bustee*.

(3) From the date of such notice no application shall be entertained for erecting on such land any hut or adding to any hut standing thereon.

(4) Such owner shall, within six months after the date of such notice, or within such further time as the Commissioners at a meeting may from time to time allow, remove all huts standing on such land; and if he does not do so, the notice shall be deemed to be cancelled.

(5) When all such huts have been so removed, such land shall according to its situation either—

- (i) be altogether excluded from the limits of the *bustee*, or
- (ii) be shown, in a standard plan approved for the *bustee* under this chapter, as not being a part of such *bustee*:

Provided that if, in the standard plan, any street or passage is shown on such land, the provisions of sections 341 and 343 shall, with all necessary modifications, be deemed to apply to such street or passage, unless the Commissioners at a meeting otherwise direct.

(6) If after all the huts have been removed under sub-section (4) any application is received for erecting any hut on such land, the Commissioners may, by written notice, require the owner of the land to carry out such improvements included in the standard plan as they may think fit.

(7) When all the huts standing on any land within a *bustee* have been removed under sub-section (4), the Commissioners at a meeting may either—

- (a) cancel the standard plan (if any), already approved, under this chapter, for such *bustee*, or
- (b) modify such plan, after hearing the objections (if any) of any owner of land included in such *bustee*.

(8) When any land, formerly included in a *bustee*, ceases to be so included, and where any street or passage was shown on such land in the standard plan, and

of 1932.]

(Chapter X.—Bustees.—Secs. 345, 346.)

where, on such land ceasing to be so included, the Commissioners at a meeting do not consider it to be practicable, or do not consider it to be expedient to change the alignment of such street they shall, in applying the proviso to sub-section (5) to such street, compensate the owner of such land for any area that is included in such street, which is in excess of one-seventh of the entire area of the land, which ceases to be included in the *bustee*.

345. (1) In any *bustee* in respect of which a standard plan has not been prepared, or in any area in which it appears to the Commissioners that huts are likely to be erected, the Commissioners at a meeting may, after hearing the objections, if any, of any owner of land in such *bustee*, prescribe alignments, not more than sixteen feet in width, for such private streets as they may think fit.

Power to Commissioners to prescribe alignments for *bustee* streets.

(2) When the land within such *bustee* or area is owned by more owners than one, each owning one or more separate plots of such land, such alignments shall as far as practicable be so prescribed as not to occupy, within any such plot, more than one-fifth of the area thereof, and shall not ordinarily be less than two hundred and fifty feet apart.

(3) If, in any such plot, more than one-fifth of the area thereof is occupied by such alignments, the Commissioners shall pay reasonable compensation to the owner of the plot:

Provided that no such compensation shall be paid in respect of any such plot as long as any hut or other structure other than a masonry building is left standing in the plot within any such alignment.

(4) No hut or portion of a hut shall be erected within any alignment prescribed under sub-section (1).

(5) The provisions of section 341 shall, with all necessary modifications, be deemed to apply to every street, the alignment for which has been prescribed under this section.

346. (1) In any *bustee*, at any time after the expiration of seven years from the time when any alignment has been prescribed for a street or for huts under section 345, the Commissioners at a meeting may, by written notice, require the owner of the land or the owners or occupiers of existing huts to remove such huts or portions thereof as fall—

Power to Commissioners to require removal of existing huts within street or hut alignment in *bustee*.

(i) within any such prescribed street alignment,
or

(ii) within six feet on either side of any such prescribed hut alignment,

as the case may be.

(Chapter X.—Bustees.—Chapter XI.—Purity of water-supply.—Secs. 347, 348.)

(2) When a hut has been removed under the provisions of sub-section (1), the Commissioners at a meeting shall pay to the owner thereof such compensation as they may consider to be reasonable, but such compensation shall in no case exceed the value of the hut less the value of the materials thereof.

Power to Commissioners to require space to be kept between masonry building in bustee and centre line of bustee street.

347. Any person who erects a masonry building—

- (a) in any *bustee* in respect of which a standard plan has been approved under section 337, or
- (b) in any *bustee* or area in respect of which alignments for streets have been prescribed under section 345,

shall, if so required by written notice issued by the Commissioners at a meeting, leave a clear space of fifteen feet between the centre line of any street or passage shown in such plan, or of any street, the alignment for which has been so prescribed, as the case may be, and the nearest part of such building.

CHAPTER XI.

Purity of water-supply.

Power to set apart wells, tanks, etc., for drinking, culinary, bathing and washing purposes.

348. The Commissioners may, by order published at such places as they think fit, set apart any tank, well, spring or water-course or any part thereof, vested in or under their control, or with the consent of the owner thereof, any tank, well, spring or water-course or part thereof subject to any rights which the owner may retain with the consent of the Commissioners for any of the following purposes, namely,—

- (a) for the supply of water for drinking or for culinary purposes or for both, or
- (b) for the purpose of bathing, or
- (c) for washing animals or clothes, or
- (d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants,

and may by like order prohibit bathing or the washing of animals or clothes or other things at any public place not set apart for that purpose, or at any time or by a sex other than that specified in the order and may in like manner prohibit any other act by which water in public places may be rendered foul or unfit for use or which causes or is likely to cause inconvenience or annoyance to persons lawfully using such places.

of 1932.]

*(Chapter XI.—Purity of water-supply.—Secs.
349—352.)*

349. The Commissioners may, by notice, require the owner of, or the person having control over, a private tank, well, spring or water-course or other place, the water of which is used for drinking or culinary purposes, to clean the same from time to time of silt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as to the Commissioners may seem fit, and in the case of a well to repair the same.

Power to require cleansing of sources of water for drinking or culinary purposes.

350. If the Commissioners at a meeting after due inquiry are satisfied that the water of any tank, well, spring or water-course, or part thereof or other place, used or likely to be used for drinking or culinary purposes, is, if so used, liable to engender or cause the spread of disease, and that owing to its situation or other cause such place cannot effectively be protected from pollution, or if the owner of, or person having control over, any such place refuses or neglects to comply with a requisition of the Commissioners under section 349, the Commissioners may—

Power to prohibit use of polluted water for drinking or culinary purposes.

(a) by public notice prohibit the use or removal of water from such place for drinking or culinary purposes during a period to be specified in the notice and take such steps as they may consider necessary to prevent the use or removal of water for such purposes; or

(b) in the case of a private well, require the owner of, or person having control over it to close it permanently or to fill it up with suitable material.

351. The Commissioners or any person authorised by them in this behalf may, at all reasonable times, inspect and disinfect any tank, well, spring or water-course or other place from which water is, or is likely to be taken for drinking or culinary purposes.

Power to inspect and disinfect sources of water used for drinking or culinary purposes.

352. (1) The ¹[Provincial Government] may make rules to provide for the proper analysis of the water of any water-works, tanks, well, spring or water-course or other place, used or likely to be used for drinking or culinary purposes in any municipality and in particular may—

Analysis of water for drinking or culinary purposes.

(a) require the Commissioners to make over at such times and places and to such person or persons as the Director of Public Health may appoint in this behalf, samples of

¹See foot-note 3 on p. 1, *ante*.

(Chapter XI.—Purity of water-supply.—Sec. 353.)

water taken under such precautions and in such manner as the Director of Public Health may prescribe,

(i) from the water-works of the Commissioner where any exist, or

(ii) where no water-works exist or where any water used for domestic or culinary purposes is drawn from any tank, well, spring or water-course or other source of supply then from any such tank, well, spring or water-course or other source of supply or as the Director of Public Health may at any time specify in this behalf;

(b) prescribe a scale of fees to be paid by the Commissioners for the analysis which shall be made of the aforementioned samples under the direction of the Director of Public Health.

(2) Where any tank, well, spring or water-course or other source of supply is not within the control of the Commissioners, they shall nevertheless have full power to take water in such manner as they may think proper from any of the above sources of supply for the purpose of furnishing samples to the Director of Public Health.

Application for analysis by Public Analyst of water for domestic purposes.

353. On the representation of two qualified medical practitioners or ten or more persons to the Commissioner, of any municipality within whose jurisdiction they reside, that within the municipality the water in any tank, well-spring or water-course, public or private, used or likely to be used for drinking or culinary purposes or for the manufacture of aerated or other drinks for human consumption is so polluted as to be injurious to health, the Commissioners shall forward a sample of such water to the Public Analyst for analysis at the cost of the Commissioners and if the Public Analyst certifies that such water, if used for drinking or culinary purposes, is liable to engender or cause the spread of disease, the Commissioners shall take measures to remedy the same or require the owner or person having control over such source of supply to take such measures for this purpose as to the Commissioners may seem fit, or if such source of supply cannot in their opinion effectively be protected from pollution, then the Commissioners shall make such order as they think proper and are empowered to make under this Act:

Provided that if the Commissioners are of opinion for reasons to be stated in writing that any representation made under this section is frivolous or vexatious,

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(Chapter XI.—Purity of water-supply.—Chapter XII.
—Insanitary and Dangerous Property.—Secs. 354
—356.)

they may, before forwarding a sample of the water to the Public Analyst, require the persons making the representation to deposit the cost of the analysis, which shall be refunded in the event of the Public Analyst granting the certificate referred to in this section.

354. Where the Commissioners have appointed a person to be the Public Analyst for the area under their control under section 3 of the Bengal Food Adulteration Act, 1919, the '[Provincial Government]' may, with the consent of the Commissioners, direct that any analysis prescribed under sections 352 and 353 of this Act shall be made by such analyst on the payment of such fees by the Commissioners for whom the analysis may be made, as the '[Provincial Government]' may fix.

Fees for analysis of water.

Ben. Act
VI of
1919.

By-laws relating to public water-supply, etc.

355. The Commissioners at a meeting may make by-laws regulating the use of, and the prevention of nuisances in regard to, the public water-supply, bathing and washing places, streams, channels, tanks and wells.

Power to make by-laws.

CHAPTER XII.

Insanitary and Dangerous Property.

356. (1) When—

- (a) any well, pool, ditch, tank, pond, pit or marshy or undrained ground, or
- (b) any cistern, reservoir or water-butt or any other receptacle or place where water is stored or accumulates, or
- (c) any waste or stagnant water, whether within any private enclosure or not,

Power to direct the filling up, etc., of unwholesome wells, pools, etc.

appears to the Commissioners to be or to be likely to become injurious to health or offensive to the neighbourhood, they may, by written notice, require the owner or occupier of the land or building to which such well, cistern, reservoir, water-butt or receptacle pertains, or of the land, as the case may be, in which such pool, ditch, tank, pond, pit, ground, place or water is situated, at the expense of such owner or occupier—

- (i) to cleanse the same, or
- (ii) to re-excavate the same, or

¹See foot-note 3 on p. 1, ante.

(Chapter XII.—*Insanitary and Dangerous Property.*—
Secs. 357, 358.)

(iii) to fill up the same with suitable material, or

(iv) to drain off or to remove water from the same,

or to take such other order therewith as the Commissioners may deem necessary within such period as may be specified in the notice.

(2) If the Commissioners, in exercise of the powers conferred under this Act, execute any work referred to in a notice issued under sub-section (1), and if the person liable to pay the expenses of such work fails to pay the same, the Commissioners may, until such expenses are paid,—

(i) take over and let out on lease any part of the land used in connection with the said well, pool, ditch, tank, pond, pit, cistern, reservoir, water-butt, receptacle, place of water, or any part of the said ground, as the case may be, or

(ii) retain possession of the same, or the site thereof, and utilize it for public purposes.

(3) If the said expenses be paid by an occupier of land, he may in the absence of any agreement to the contrary deduct the same from any rent due to the owner of the land.

Power to Commissioners to regulate excavations.

357. (1) No person shall, within a municipality without the special permission of the Commissioners, make an excavation for the purpose of taking earth therefrom, or for the making of bricks or for the purposes of storing rubbish or offensive matter therein or dig any cess-pools, tanks, ponds, wells or pits:

Provided that the Commissioners at a meeting may make such general exemptions from the provisions of this section as may appear to them to be necessary for the public convenience.

(2) If any such excavation, cess-pool, tank, pond, well or pit is made or dug without the permission required under sub-section (1), the Commissioners may, whether the offender be prosecuted or not, by written notice require the owner or occupier of the land on which the same is made or dug to fill up the same with earth or other material approved by the Commissioners within such time as may be specified in the notice.

Power to extend sections 356 and 357 beyond municipal limits.

358. The Commissioners of a municipality may, in consultation with any adjacent local authority and subject to the approval of the ¹[Provincial Government], extend the provisions of sections 356 and 357

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XII.—*Insanitary and Dangerous Property.*—
Secs. 359, 360.)

to any area beyond the municipality and may make such provision as to costs for execution of any work in the area as may be agreed upon between the Commissioners and the local authority concerned.

359. (1) If any well, tank or other excavation, whether on public or private ground, is for want of sufficient repairs or protection, dangerous to passengers, the Commissioners shall forthwith cause a written notice to be served on the owner, if he be known and resident in the municipality, and also to be put on some conspicuous part of the premises or served on owners or occupiers (if any) of the land on which such tank, well or other excavation is situated requiring such owner or occupier forthwith properly to secure or protect such well, tank or other excavation.

Wells, tanks, etc., to be secured.

(2) The Commissioners may also, if it appears to them to be necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the cost of the owner or occupier of such land for the safety of the public.

360. If the Commissioners at a meeting, after due inquiry, are satisfied that the cultivation of any description of crop, or the use of any kind of manure or the irrigation of land in any specified manner—

Power to prohibit cultivation, use of manure or irrigation injurious to health, and to remove growth of water-hyacinth and other noxious plants.

- (a) in any place within the limits of the municipality, is injurious, to the health of persons dwelling in the neighbourhood, or
- (b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking or culinary purposes,

or that any person is permitting the growth within or without the limits of the municipality of water-hyacinth, or such other noxious plants as may be certified in this behalf by the ¹[Provincial Government] as being a danger to the health of persons resident within the limits of the municipality or to navigation within those limits,

the ¹[Provincial Government] may, on receipt of an application from the Commissioners, by public notice, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury or, in the case of water-hyacinth or such other noxious plant

¹See foot-note 3 on p. 1, ante.

(Chapter XII.—*Insanitary and Dangerous Property.*—
Secs. 361—364.)

as may be in this behalf notified, may impose such regulations as may secure the removal of the same :

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five successive years last preceding the date of the prohibition, compensation shall be paid from the Municipal Fund to all persons interested therein for any damage caused to them by such prohibition.

Power to
inspect premises
for sanitary
purposes.

361. The Commissioners may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof :

Provided that no such inspection shall be made at night except by an officer specially authorized by the Commissioners in this behalf without giving reasonable notice.

Power to
require cleansing
and lime-washing
of building.

362. If it appears to the Commissioners necessary for sanitary reasons so to do, they may, by written notice, require the owner or occupier of any building inspected under section 361 to cause the same or any portion thereof to be lime-washed or otherwise cleansed, either externally or internally or both externally and internally.

Power to require
owners to clear
noxious
vegetation
and to
improve bad
drainage.

363. Whenever any land, being private property or within any private enclosure, appears to the Commissioners, by reasons of thick vegetation, undergrowth or jungle, or inequalities of surface, or by want of drainage, to be in a state injurious to health or offensive to the neighbourhood, the Commissioners at a meeting may require the owners or occupiers or the owners and occupiers, of such land, within fifteen days to clear and remove such vegetation, undergrowth or jungle, or dress such surface or drain such land :

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

Power to
demolish, repair
or secure wall,
building or
fixture in a
ruinous
state, etc.

364. (1) If any wall or building, or anything affixed thereto, be deemed by the Commissioners to be in a ruinous state, or likely to fall, or to be in any way dangerous, they shall forthwith cause a written notice to be served on the owner, if he be known and resident in the municipality, and also to be put on some conspicuous part of the wall or building or served on the occupier (if any) of the building requiring such owner or occupier forthwith to demolish, repair or secure such wall, building or thing as the case may require.

of 1932.]

*(Chapter XII.—Insanitary and Dangerous Property.—
Sec. 365.)*

(2) The Commissioners may also, if it appears to them to be necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building for the safety of the public or the inmates thereof; and may also, after giving them such notice as the Commissioners may think necessary, require the inmates of the building to vacate it.

(3) So far as they are in force in the municipality the provisions of this Act and of Schedule VI, and of any rules or by-laws made under this Act relating to buildings shall apply to any work done in that municipality in pursuance, or in consequence, of a notice issued under sub-section (1).

365. (1) Whenever the Commissioners at a meeting consider—

(a) that any building is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with risk to the health of the occupiers thereof or to the inhabitants of the neighbourhood or is, for any reason, likely to endanger the public health, or

(b) that a block or group of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid,—

Power to prevent public danger, etc., from insecure or insanitary buildings.

they may by notice require the owners or occupiers of such building or buildings or portions thereof, or, at the option of the Commissioners, the owners of the land occupied by such building or buildings or portions thereof, to execute such works or to take such measures as they may deem necessary for the prevention of such risk.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section, save when the building is demolished to the extent of more than half of its cubical contents in pursuance of an order made thereunder, in which case the Commissioners shall pay reasonable compensation to the owners thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the

(Chapter XII.—*Insanitary and Dangerous Property.*—
Sec. 366.)

first named building in proportion to the increased value accruing to their own premises.

The amount of such contribution and the proportions in which it is to be divided among the owners of such other buildings shall be determined by the Commissioners at a meeting and shall be recoverable as though it were a rate under the provisions of Chapter V.

(4) When any building though not entirely demolished under this section is demolished to the extent of more than half of its cubical contents, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

(5) Any person aggrieved by an order made by the Commissioners under this section may appeal to the ¹[Provincial Government] within thirty days and the decision of the ¹[Provincial Government], given after such inquiry as it thinks fit, shall be final.

(6) The order made by the Commissioners under this section shall not take effect until the expiry of thirty days, or, if an appeal has been lodged until the decision of the ¹[Provincial Government] is given under sub-section (5).

Procedure in
cases of
buildings
deemed unfit
for human
habitation.

366. (1) If, for any reason, any building or portion of a building intended for, or used as, a dwelling place appears to the Commissioners at a meeting to be unfit for human habitation, they may require the owner or occupier of such building to make such alterations as they think necessary in the building in order to make it fit for human habitation, if they consider that this can be done, but whether they think it can be made fit for human habitation or not, they may, in either case, after giving the owner or occupier an opportunity of being heard, apply to a Magistrate to prohibit the further use of such building or portion thereof for such purpose;

and the Magistrate shall serve a notice on such owner or occupier so as to give him an opportunity of being heard in the Court, and after such inquiry as he thinks fit to make, may, by written order, prohibit the further use thereof, or may pass such other order as he may deem just and proper.

(2) When any such prohibition has been made, the Commissioners may—

- (i) inspect such building by day or by night, and
- (ii) take such order as may be necessary to preclude the further use of the same, or of the portion specified in the prohibition as a human habitation.

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XII.—Insanitary and Dangerous Property.—
Sec. 367.)

(3) When any such prohibition has been made, no owner or occupier of such building shall use, or suffer the same, or the portion specified in the prohibition, to be used for human habitation until—

(a) the Chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or

(b) the Magistrate, by written order, withdraws the prohibition.

(4) The Commissioners shall prepare and maintain at the municipal office a list of buildings in respect of which the Magistrate has passed an order under subsection (1), and such list shall contain such particulars as to the action taken by the Commissioners or the owner in pursuance of such order or otherwise, as the Chairman shall think fit and shall be open to inspection by the public free of charge.

367. (1) When a Magistrate has prohibited the use of a building for human habitation under section 366 and such prohibition has been in force for three months, the Commissioners at a meeting shall take into consideration the question of the demolition of such building.

Power to
Commissioners
to require
demolition of
building unfit
for human
habitation.

and shall give notice of the time (being some time not less than one month after the service of the notice) and place at which such question will be considered to the owner, and to the occupier (if any) of the building,

and the said owner and occupier shall be entitled to be heard when the question is so taken into consideration.

(2) If, upon such consideration, the Commissioners are of opinion that the building has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, they shall cause a written notice to be served on the said owner and occupier and also to be put on some conspicuous part of such building, requiring such owner and occupier to demolish the building or any portion thereof as the case may be or to execute such work as in the opinion of the Commissioners at a meeting may be necessary to render the building fit for human habitation.

(3) If such owner or occupier undertakes to execute with due diligence the work necessary to render the building fit for human habitation, and the Commissioners consider that it can be so rendered fit for human

[Ben. Act XV

(Chapter XII.—*Insanitary and Dangerous Property.*—
Secs. 368, 369.)

habitation, the Commissioners may postpone the operation of the said notice for such time as they think sufficient for the purpose of giving the said owner or occupier an opportunity of executing the necessary work.

Abatement of
overcrowding
in dwelling-house
or dwelling-
place.

368. (1) If it appears to the Commissioners that any dwelling-house or other building which is used as a dwelling-place, or any room in such dwelling-house or building, is so overcrowded as to endanger the health of the inmates thereof, they may apply to a Magistrate to abate such overcrowding; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such overcrowding by reducing the number of lodgers, tenants, or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The Commissioners at a meeting may, by written order, declare what amount of superficial and cubic space shall be deemed for the purpose of sub-section (1) to be necessary for each occupant of a building or room.

(3) If any building or room referred to in sub-section (1) has been sublet, the landlord of the lodgers, tenants, or other actual inmates of the same, shall, for the purposes of this section, be deemed to be the owner of the building or room.

(4) Notwithstanding anything contained in any law or in any contract to the contrary it shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1).

(5) Nothing in sub-section (1) shall apply to a dwelling-house or building used as a dwelling-place or a room in such dwelling-house or building which is overcrowded by the members of family of the owner thereof.

Prevention of
danger from
ruinous
buildings, etc.

369. Notwithstanding anything contained in this Act, where it appears to the Commissioners that immediate action is necessary for the purpose of preventing imminent danger to person or property from any building, wall, bank, or other structure or anything affixed thereto or to remove any tree or other thing, which appears to them to be a source of imminent danger to person or property the Commissioners may take such immediate action themselves; and in such a case, it shall not be necessary for the Commissioners

of 1932.]

(Chapter XIII.—Offensive and Dangerous Trades, Occupations or Processes.—Sec. 370.)

to give notice if it appears to them that the object of taking such immediate action would be defeated by the delay incurred in giving notice.

CHAPTER XIII.

Offensive and Dangerous Trades, Occupations or Processes.

370. (1) No person shall use or permit to be used any place within such local limits as may be fixed by the Commissioners at a meeting without a license from the Commissioners (which shall be renewable annually) for any of the following purposes, namely:—

Power to prohibit certain offensive and dangerous trades without license.

(i) for the slaughter of animals or for the skinning or disembowelling of animals for purposes other than human consumption:

Provided that this clause shall not apply to slaughter of animal for a *bona fide* religious purpose or on a ceremonial occasion; or

(ii) for storing hides, fish, horns or skins; or

(iii) for boiling or storing offal, blood, bones or rags; or

(iv) for melting tallow; or

(v) for tanning or for the manufacture of leather or leather goods; or

(vi) for oil-boiling; or

(vii) for soap-making; or

(viii) for dyeing; or

(ix) for burning or baking bricks, tiles, pottery or lime, whether for trade or private purposes; or

(x) as a depot for trade in coal or coke; or

(xi) for storing kerosine, petroleum, naphtha, or any inflammable oil or spirit; or

(xii) for trading in, or storing for other than his own domestic use, hay, straw, wood, thatching grass, jute or other dangerously inflammable material:

Provided that this clause shall not apply to the stock of any such article held by and intended for use in the business of, any mill, factory, shipyard, engineering or other manufacturing firm ¹[to which the provisions of the Indian Factories Act, 1934;

^a These words and figure were inserted by s. 35 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter XIII.—*Offensive and Dangerous Trades, Occupations or Processes.*—Secs. 371, 372.)

apply and which is] situated within the municipality; or

(*xiii*) for any manufacture, process or business from which offensive or unwholesome smells or offensive noises may arise; or

(*xiv*) for any trade, process or business which the '[Provincial Government] may, by notification, declare to be a trade, process or business which requires to be regulated under the provisions of this chapter.

(2) A license for any of the purposes mentioned in sub-section (1) shall not be withheld unless the Commissioners at a meeting have reason to believe that the business which it is intended to establish or maintain would be the cause of annoyance, offence or danger to persons residing in or frequenting the immediate neighbourhood or that the area should be for general reasons kept clear of the establishment of such business.

(3) The Commissioners at a meeting may, in accordance with a scale of fees to be prepared by them from time to time and approved by the '[Provincial Government], levy a fee in respect of any such license and the renewal thereof, and may impose such conditions as to supervision, inspection, conservancy and other matters upon the grant of any such license as they may think necessary.

(4) The grant of a license for the purposes mentioned in clause (*xi*) of sub-section (1) shall be consistent with the provisions of the Indian Petroleum Act, 1899, and no such license shall be granted unless the said provisions have been complied with by the applicant for the license.

VIII of
1899.

Power to order the carrying on of dangerous and offensive trades to be discontinued.

371. If it appears to the Commissioners at a meeting that at any place licensed under section 370 the business is being carried on in contravention of the terms of the license in such a way as to be a cause of annoyance or offence to persons residing in or frequenting the immediate neighbourhood or of danger to health, they may, notwithstanding anything contained in the said section, after giving one month's notice to the licensee, cancel his license.

Licensing of places for keeping horses and cattle.

372. (1) No dairyman, milkman, cartman, livery stable-keeper or keeper of hackney carriages shall keep horses, ponies, cattle or other four-footed animals for the purposes of trade or business except in a place licensed by the Commissioners:

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XIII.—Offensive and Dangerous Trades, Occupations or Processes.—Secs. 373—375.)

Provided that this sub-section shall not apply to a cartman who keeps not more than four animals for the purposes of using them with his own cart.

(2) Licenses granted under sub-section (1) shall be subject to such conditions as the Commissioners at a meeting may impose in respect of the site, construction, materials and dimensions of any structure erected for keeping horses, ponies, cattle or other four-footed animals, and in respect of the fencing, drainage, cleansing and in any other matter relating to the regulation of such places as they may think necessary.

373. (1) The Commissioners at a meeting may provide public stables for the accommodation of horses and cattle and may direct that, within such limits as they shall at a meeting determine, no person shall keep horses or cattle, exceeding ten in number, for the purposes of trade or business except in such public stables, or in places licensed under section 372.

Commissioners may provide public stables.

(2) The Commissioners at a meeting may charge such reasonable fees as they shall think fit for the use of such public stables.

(3) The Commissioners at a meeting may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year.

(4) It shall be in the discretion of the Commissioners at a meeting to grant any such license subject to such conditions as they may think fit.

374. (1) Within such limits as the Commissioners at a meeting may direct, no person shall keep pigs or in any place more than twenty sheep or twenty goats without a license from the Commissioners, which shall be renewable annually.

Conditions for keeping pigs, sheep and goats.

(2) The Commissioners at a meeting may charge an annual fee not exceeding two rupees for such license, and in respect of such license may impose such conditions as to fencing, drainage, paving, cleansing and other matters for the regulation of such places as they may think necessary.

375. The Commissioners at a meeting may make by-laws—

Power to make by-laws regulating places used for offensive trades, etc.

(a) providing for the inspection and regulation of the conduct of business in a place used for any of the purposes mentioned in section 370, so as to secure cleanliness therein, or to minimize any injurious, offensive or

[Ben. Act XV.]

*(Chapter XIV.—Restraint of Infection.—
Secs. 376, 377.)*

dangerous effect arising or likely to arise therefrom;

- (b) regulating or prohibiting for the prevention of any public annoyance or inconvenience or for the purpose of preventing danger to public health, the stalling of elephants, horses, camels, cattle, donkeys, sheep or goats;
- (c) regulating or prohibiting for the prevention of any public annoyance or inconvenience or for the purpose of preventing danger to the public health the place and manner of stalling pigs; and
- (d) to prevent the straying of pigs.

CHAPTER XIV.**Restraint of Infection.**

Duty of
Commissioners
in case of
epidemic.

376. If the Commissioners have reason to believe that any dangerous disease has appeared or is likely to appear in epidemic form within the municipality, they shall promptly investigate the matter, secure the prompt and thorough isolation of those sick or infected with such disease, so long as there is danger of their communicating the disease to other persons; see that no person suffers for lack of nurses or other necessities because of isolation for the public good; give public notice of infected places by placard on the premises and otherwise, if necessary, promptly notify head teachers of schools concerning families any of the members of which are suffering from dangerous diseases; supervise funerals of persons dead from such diseases, disinfect rooms, clothing and premises, and all articles likely to be infected; and generally so exercise the powers conferred on them by this Act as to guard and protect the public health and do such things as may be necessary to check and prevent the spread of the disease

Information to
be given of
dangerous
disease.

377. A medical practitioner or a person practising the medical profession, and in the course of such practice becoming cognizant of the existence of any dangerous disease in any building other than a public hospital; or if no medical practitioner or person practising the medical profession is so cognizant, the owner or occupier of such building cognizant of the existence of any such disease therein; or if the owner or occupier is not so cognizant, the person in charge of, or in

of 1932.]

*(Chapter XIV.—Restraint of Infection.—
Sec. 378.)*

attendance on, any person, suffering from any such disease in such building, cognizant of the existence of the disease therein, shall give true and correct information to such officer as the Commissioners may direct respecting the existence of such disease:

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information has been, or would be duly given.

378. (1) When, in the opinion of any registered medical practitioner, any person is suffering in any municipality from any dangerous disease and is also without proper lodging or accommodation or is lodged in such a manner that he cannot be effectually isolated so as to prevent infection or contagion, and the said practitioner considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment, he may send a certificate to that effect to the Commissioners.

Power to
Commissioners
to remove
patient to
hospital in
certain cases.

(2) On receipt of any such certificate, the Commissioners may direct or cause the removal of such person to such hospital or place:

Provided that all costs incurred for the removal and in the treatment of any such patient may be borne by the Commissioners:

Provided also that, if any such person is a female, she shall not be removed to any such hospital or place unless the same has accommodation for females, and set apart from the portion assigned to males.

(3) The person (if any) who has charge of a person, in respect of whom an order is made under sub-section (2), shall obey such order.

(4) If any female who, according to the custom of the country, does not appear in public, be removed to any hospital or place under sub-section (2)—

- (a) the removal shall be effected in such a way as to preserve her privacy;
- (b) special accommodation suited to such custom shall be provided for her in such hospital or place;
- (c) one female relative or attendant shall be allowed to remain with her.

(5) The Commissioners at a meeting may provide nurses for attendance on patients suffering from any dangerous disease in the municipality who, owing to

*(Chapter XIV.—Restraint of Infection.—
Sec. 379.)*

want of hospital accommodation or danger of infection or contagion, cannot be removed to hospital or in cases where removal to the hospital is likely to endanger the patient's health; and may charge such reasonable fees for the services of and fix the qualifications, duties and salaries of such nurses.

**Power to
cleanse or
disinfect
buildings,
tank, etc.**

379. (1) If the Commissioners are of opinion—

- (a) that any building or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or
- (b) that the cleansing, limewashing or disinfecting, as the case may be, of any building or any part of a building or of any tank or pool or well adjacent to a building, or that the cleansing, disinfection, purification or destruction of any article therein which is likely to retain infection or by reason of its filthy condition likely to cause injury to the health of any person, would tend to check or prevent the spread of any dangerous disease,

they may cause such building or part thereof to be cleansed, limewashed or disinfected or such tank, pool, well or article to be cleansed, disinfected or purified or such article to be destroyed and may, by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be prescribed in such notice.

(2) The cost of such cleansing or disinfecting shall be paid by the occupier of the building, or in the case of any tank, pool or well not let out with a building by the owner or occupier of the holding in which such tank, pool or well is situated according as the Commissioners at a meeting may determine:

Provided that—

- (a) if, in the opinion of the Commissioners at a meeting, the occupier is from poverty unable to pay the said cost, the Commissioners shall direct payment thereof to be made from the Municipal Fund, and
- (b) the Commissioners shall provide temporary shelter or house accommodation for the members of any family in which any dangerous disease has appeared who have been compelled to leave their dwellings for the purposes of enabling such dwellings to be disinfected for any part of a night.

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*(Chapter XIV.—Restraint of Infection.—
Secs. 380—382.)*

(3) Where a person sustains damage in consequence of the destruction of any article under this section, and the condition of such article is not attributable to the act or default of such person, the Commissioners at a meeting shall make reasonable compensation to that person.

380. (1) If the Commissioners are of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, they may, after giving to the owner or occupier of such hut or shed such previous notice of their intention as may in the circumstances of the case appear to them to be reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

Power to
Commissioners
to destroy
huts and sheds.

(2) The Commissioners at a meeting shall make such compensation not exceeding the value of the hut as they think proper to any person who sustains loss by the destruction of any such hut or shed, but except as so allowed by the Commissioners, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (1).

381. No person shall knowingly let a dwelling-house or other building or part of a dwelling-house or building in which any person has been suffering from any dangerous disease—

Infected
building not
to be let.

(a) unless such house, building or part thereof and all articles therein liable to retain infection have been disinfected and the Commissioners have granted a certificate to that effect, and

(b) until a date specified in such certificate as that on which the house, building or part may be occupied and the articles therein used without causing risk of infection or contagion.

For the purposes of this section a hotel or lodging house-keeper shall be deemed to let part of his hotel or lodging house to any person accommodated therein.

382. (1) The Commissioners at a meeting may provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection or contagion.

Provision of
places and
appliances for
disinfection.

(2) The Commissioners may—

(a) cause conveyances, clothing or other articles brought for disinfection to be disinfected

*(Chapter XIV.—Restraint of Infection.—
Secs. 383—386.)*

free of charge or subject to such charges as may be approved by them; and

- (b) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed, and shall give compensation for any article destroyed under this clause.

Provision of places for disinfection or washing of infected articles.

383. The Commissioners at a meeting may from time to time, by public notice, appoint a place or places at which conveyances, clothing, bedding or other articles which have been exposed to infection or contagion from any dangerous disease, may be washed, and no person shall wash or cause to be washed any such article at any place not so appointed, unless the same has been disinfected to the satisfaction of the Health Officer or Sanitary Inspector or of a registered medical practitioner.

Acts done by persons suffering from certain diseases.

384. No person suffering from any disease notified by the ¹[Provincial Government] in this behalf shall—

- (a) make or offer for sale any article of food for human consumption or any medicine or drug; or
- (b) wilfully touch any such article, medicine or drug when exposed for sale by others; or
- (c) take any part in the business of washing or carrying soiled clothes; or
- (d) sell clothes or any other article for human wear or likely to come into contact with the human body without a written permission from the Health Officer, or, in case of a municipality not employing a Health Officer, from the Chairman.

Infected articles not to be transmitted without previous disinfection.

385. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

Exposure of person suffering from dangerous disease, and restrictions on carriage of patient or dead body in public conveyance.

386. (1) No person shall—

- (a) while suffering from any dangerous disease wilfully expose himself in any street, public place, shop, bazar or any place used in common by persons other than members of the family or household to which such infected person belongs, or cause or suffer

¹See foot-note 3 on p. 1, ante.

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(Chapter XIV.—Restraint of Infection.—Sec. 387.)

himself or any clothing, bedding or other article which has been exposed to infection or contagion to be carried in a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering or that such article is so infected, and without proper precautions against spreading the said disease, or

- (b) so carry or permit to be carried in a public conveyance the dead body of any person who has died from a dangerous disease or any clothing, bedding, or other article which has been exposed to infection or contagion or while in charge of any person suffering from any dangerous disease expose such sufferer in any such place as is referred to in clause (a) or carry such sufferer or permit him to be carried in a public conveyance without giving previous notice and taking the precautions referred to in that clause.

(2) Notwithstanding anything contained in any enactment relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid or to carry any such dead body or any such infected clothing, bedding or other article as aforesaid, in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses which he must incur in disinfecting such conveyance is first of all made to him.

387. (1) The owner, driver or person in charge of any public conveyance in which any person suffering from any dangerous disease or the dead body of any person who has died from such disease or any clothing, bedding or other article which has been exposed to infection or contagion has been carried shall immediately take the conveyance for disinfection to a place, if any, appointed under section 382 or section 383.

Disinfection of public conveyance after carriage of patient or dead body.

(2) The person in charge of such place shall forthwith intimate to the Commissioners the number of the conveyance and proceed to disinfect the conveyance.

(3) If no place has been appointed under '[section 382 or section 383,] the Commissioners shall take such steps as they may think proper for disinfecting such conveyance.

¹These words and figures were substituted for the words and figures "section 383 or section 384" by s. 8 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

[Ben. Act XV]

(Chapter XIV.—*Restraint of Infection.*—
Secs. 388—391.)

(4) No such conveyance shall be used until the Commissioners have granted a certificate stating that it may be used without causing risk of infection or contagion.

Power to provide special conveyances for patients, dead bodies and infected articles.

388. (1) The Commissioners at a meeting may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or of the dead bodies of persons who have died from any such disease or for the removal of any clothing, bedding or other article which has been exposed to infection or contagion.

(2) When such conveyances have been provided, it shall not be lawful, without the sanction of the Commissioners, to carry any such person or dead body or any such clothing, bedding or other article in, or for any such person to cause himself to be carried in, or for any person to cause any such dead body or any such clothing, bedding or other article to be carried in, any other public conveyance.

Power of entry for purposes of preventing spread of diseases.

389. The Commissioners may authorize any officer to enter, at any time between sunrise and sunset after three hours' notice, into any building or premises in which any dangerous disease is suspected to exist, for the purposes of inspecting such building or premises.

Power to close market, etc.

390. (1) The Commissioners may, for a specified time, with a view to preventing the spread of any dangerous disease, order that any market, *sarai*, hotel or lodging-house within the municipality shall be closed, or forbid any person to attend any such market or to lodge in such *sarai*, hotel or lodging-house.

(2) Such order shall be publicly notified in such manner and at such places as the Commissioners shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market or the keeper of the *sarai*, hotel or lodging-house.

(3) After complying with the notice, the owner, occupier or farmer of the market or the keeper of the *sarai*, hotel or lodging-house or any person interested may appeal to the Magistrate, or where the Magistrate is the Chairman of the municipality, to the Commissioner of the Division, if he considers the notice to be unreasonable, and the order of the Magistrate or of the Commissioner of the Division, as the case may be, shall be final.

Power to close school.

391. (1) The Commissioners may, by notice, require the proprietor or person in charge of any school situated within the municipality for a specified time, with a view to preventing the spread of any dangerous disease

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(Chapter XIV.—Restraint of Infection.—Sec. 392.)

or any danger to health likely to arise from the condition of the school, either to close the school or to exclude any scholars from attendance; and the proprietor or person in charge, as the case may be, shall forthwith comply with the notice.

(2) After complying with the notice, the proprietor or person in charge may appeal to the Magistrate or where the Magistrate is the Chairman of the municipality, to the Commissioner of the Division, if he considers the notice to be unreasonable, and the order of the Magistrate or the Commissioner of the Division, as the case may be, shall be final.

392. The Commissioners at a meeting may make by-laws for the control, restraint and prevention of any dangerous disease and in particular, and without prejudice to the generality of the foregoing power, they may, and when required by the '[Provincial Government] shall, make by-laws regarding the following matters:—

By-laws for control, etc., of dangerous disease.

- (a) the restraint, segregation, and isolation of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion;
- (b) the removal, disinfection and destruction of personal effects, goods, houses and other property exposed to infection or contagion;
- (c) the removal to hospital and the treatment of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion;
- (d) the speedy burial or cremation of the bodies of persons who have died from any dangerous disease;
- (e) house to house visiting and inspection;
- (f) the promotion of cleanliness, ventilation and disinfection;
- (g) the duties in respect of the prevention and notification of any dangerous disease, and in respect of persons suffering or suspected to be suffering therefrom, of the owners and occupiers of tea-gardens, factories, mills and workshops and of other persons employing in any one place not less than fifty persons;
- (h) the duties of parents or guardians whose children being school children are suffering

¹See foot-note 3 on p. 1, *ante*.

(Chapter XIV.—Restraint of Infection.—Sec. 393.)

or have recently suffered from any dangerous disease or have been exposed to infection or contagion and the duties of persons in charge of schools in respect of such children;

- (i) the prevention of the spread from any animal, or the carcasses or product of any animal, to man, of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or any other disease communicable to man by any animal or the carcass or product of any animal;
- (j) the prevention of the spread and the eradication of malaria, the destruction of mosquitoes and the removal or abatement of conditions permitting or favouring the multiplication or prevalence of mosquitoes;
- (k) the prevention of the spread of disease by flies or other insects and the destruction of such insects, and the removal or abatement of conditions permitting or favouring the prevalence or multiplication of such insects;
- (l) the destruction of rodents and other vermin and the removal or abatement of conditions permitting or favouring the harbourage or multiplication thereof;
- (m) the prevention of the spread of any dangerous disease by the carrying on of any business, trade or occupation;
- (n) the regulation of rag-flock manufacture and the trade in rags and in bones and in second-hand clothing, bedding or any similar article and the requiring any such article to be disinfected before its importation, removal, sale or exposure for sale, or use in any manufacturing process; and
- (o) the disposal of any refuse, waste matter or other matter or thing, which has been contaminated with or exposed to infection or contagion.

Vaccination.

Health Officer
to exercise
powers of
Superintendent
of Vaccination.

393. A Health Officer appointed under section 66 or section 67 shall, within the municipality to which he is appointed, subject to such restrictions as the ¹[Provincial Government] may impose, exercise the powers and perform the duties of a Superintendent of Vaccination.

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter XV.—Hospitals, Dispensaries, Child Welfare and School Hygiene.—Secs. 394, 395.)

CHAPTER XV.

Hospitals, Dispensaries, Child Welfare and School Hygiene.

394. (1) The Commissioners at a meeting may provide hospitals, dispensaries or temporary places for the reception of the sick, and for that purpose may—

Power to Commissioners to provide hospitals, dispensaries, etc., for the reception of the sick.

- (a) themselves build, alter, add to and maintain such hospitals, dispensaries or places of reception; or
- (b) contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or
- (c) enter into an agreement with any person or authority having the management of any hospital, within or without the municipality for the reception of the sick inhabitants of the municipality on the payment of such annual or other sum as may be agreed on.

(2) The Commissioners of any municipality may combine with any other local authority in providing, maintaining or improving a common dispensary, hospital or place for the reception of the sick, provided that the scheme of management and the apportionment of the costs shall be approved by the ¹[Provincial Government].

395. (1) The Commissioners at a meeting may provide—

Power of Commissioners to provide nurses, midwives, etc.

- (a) midwives for attendance in maternity cases; and
- (b) health visitors to visit and inspect any premises in the municipality and to give advice to expectant mothers on the management of their health and as to the proper nurture, care and management of young children, and the promotion of cleanliness.

(2) The Commissioners at a meeting may charge such reasonable fees for the services of midwives provided by them as they think fit and may prescribe rules for the qualifications, duties and salaries of such midwives and of health visitors.

¹See foot-note 3 on p. 1, *ante*.

[Ben. Act XV]

(Chapter XV.—Hospitals, Dispensaries, Child Welfare and School Hygiene.—Sec. 396.)

Rules for child welfare.

396. The '[Provincial Government] may make rules—

- (a) requiring the father of a child if actually residing in the house where the child is born at the time of its birth, and any person in attendance upon the mother at the time of, or within twelve hours after, the birth, to give notice of the birth to the Health Officer or Sanitary Inspector in such manner as the Commissioners may prescribe;
- (b) requiring the certification and registration of all midwives, *dhais*, or other women who habitually or for gain attend women in childbirth, prescribing minimum qualifications, examinations and courses of training for any such persons or classes of persons, regulating the issue of certificates, deciding the conditions under which such persons may be suspended from practice and their certificates cancelled, and regulating, supervising and restricting within due limits the practice of such persons, particularly in regard to such matters as cleanliness, equipment, disinfection, and the submission of such reports and returns to the Health Officer, as may be prescribed;
- (c) regulating the appointment and powers of health visitors to advise persons as to infant-feeding, the proper nurture, care and management of young children and the promotion of cleanliness and regulating such other duties as may be assigned to health visitors; and
- (d) providing for the sanitary inspection of all schools and colleges and for the medical inspection of children immediately before or at the time of, or as soon as possible after, their admission to a primary or secondary school and on such other occasions as the '[Provincial Government] may direct, and authorizing the Commissioners to make such arrangements as the '[Provincial Government] may approve, for attending to the health and physical condition of the children educated in such schools.

¹See foot-note 3 on p. 1, *ante*.

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*(Chapter XVI.—Extinction and Prevention of Fire.—
Secs. 397—399.)*

CHAPTER XVI.

Extinction and Prevention of Fire.

397. For the prevention and extinction of fire, the Commissioners at a meeting may resolve to establish and maintain a fire brigade and to provide any implements, machinery or means of communicating intelligence which the Commissioners may think necessary for the efficient discharge of their duties by the brigade.

Power of fire
brigade and
other persons
for suppression
of fire.

398. (1) On the occasion of a fire in a municipality, any Magistrate, any Municipal Commissioner, the Executive Officer, the Secretary to the Commissioners, any member of a fire brigade maintained by the Commissioners, then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate or by a Municipal Commissioner) any police officer above the rank of constable may—

Power to direct
operations in
case of fire.

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire, or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire, break into or through, or pull down, or use for the passage of any hose or other appliance, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred;
- (e) call on the persons in charge of any fire engine to render such assistance as may be possible; and
- (f) generally take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) in good faith.

399. (1) The Commissioners may, without notice and at any period of the day or night, enter into and inspect a place which is suspected to contain kerosene, petroleum, or other inflammable material referred to in clauses (xi) and (xii) of section 370 in excess of the

Power to search
for inflammable
material in
excess of
authorized
quantity.

(Chapter XVI.—*Extinction and Prevention of Fire.*—
Secs. 400, 401.)

quantity permitted to be kept in such house or building under the conditions of a license granted under section 370.

(2) Should any such excess quantity of such material be discovered, it may be seized and held subject to such order as a Magistrate may pass with respect to it.

(3) If the Magistrate decides that the material seized was stored in the place contrary to the conditions of such license, he may pass an order confiscating the same.

(4) Subject to any provision of, or made under, this or any other enactment, the material so confiscated may be sold by order of the Magistrate, and the proceeds, after defraying the expenses of such sale, shall be credited to the Municipal Fund.

(5) No order of confiscation under this section shall operate to prevent any criminal or other proceedings to which the person storing the material in excessive quantity may be liable.

Stacking, etc.,
of inflammable
materials.

400. The Commissioners at a meeting may, where it appears to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting hay, straw, wood, thatching grass, jute or other dangerously inflammable materials, or from placing mats on thatched huts or lighting fires in a place or within limits specified in the notice.

Power to make
by-laws.

401. The Commissioners at a meeting may make by-laws—

- (a) providing for the guidance, discipline and conduct of the members of a municipal fire brigade and any volunteer fire brigade recognized by the Commissioners;
- (b) prescribing the officer to whom and the place at which the outbreak of a fire shall be reported;
- (c) regulating, either by rendering licenses necessary, or otherwise, the letting off of fire-arms, fire-works, fire-balloons, bombs or other explosives; and
- (d) generally making provision for the procedure and precautions to be adopted by the public on the occasion of a fire and for any other thing relating to fires in respect of which provision is necessary.

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(Chapter XVII.—*Markets and Slaughter-places.*—
Sec. 402.)

CHAPTER XVII.

Markets and Slaughter-places.

402. (1) The Commissioners at a meeting may—

Power to provide and maintain municipal markets, slaughter-houses and stock-yards.

- (a) construct, purchase, take on lease or otherwise acquire any land or building for the purpose of establishing a new municipal market or a new municipal slaughter-house or municipal stock-yard or of extending or improving any existing municipal market, municipal slaughter-house or municipal stock-yard, and

- (b) from time to time build and maintain such municipal markets, municipal slaughter-houses and municipal stock-yards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in, or frequenting, such markets, slaughter-houses or stock-yards, and charge rent, tolls and fees for the right to expose goods for sale in such markets and for the use of shops, stalls and standings therein.

(2) The Commissioners at a meeting may place the collection of such rents, tolls and fees under the management of such persons as may appear to them proper or may farm out such rents, tolls and fees on such terms and subject to such conditions as they may think fit.

(3) The Commissioners may by general or special order—

- (i) cancel or annul any right to expose goods for sale in such markets, and
- (ii) refuse the use of any shop, stall or standing thereon without compensation for such cancellation or refusal,

if the person, who has been granted that right or use or any of his servants—

- (a) closes his shop, stall or standing to the public, or

- (b) fails to supply to the public the articles ordinarily kept for sale thereon

at such times as may from time to time be fixed by the Commissioners.

(Chapter XVII.—Markets and Slaughter-places.—
Secs. 403—405.)

(4) Municipal slaughter-houses may be situated with-
in or, with the sanction of the District Magistrate,
without the limits of the municipality.

Power to close
municipal
markets,
slaughter-
houses and
stock-yards.

403. The Commissioners at a meeting may, at any
time, close any municipal market, municipal slaughter-
house or municipal stock-yard, or any portion thereof,
and the premises occupied for any market, slaughter-
house or stock-yard or portion so closed may be dispos-
ed of as the property of the Commissioners.

Prohibition of
use of municipal
market without
permission.

404. (1) No person shall, without the permission
of the Commissioners, or, if the Commissioners have
farmed out the rents and fees, without the permission
of the farmer, sell or expose for sale any living thing
or any article within a municipal market.

(2) If any person contravenes the provisions of sub-
section (1) he may, in addition to any penalty which
may be imposed on him under this Act, be summarily
removed from such market by the Commissioners, or by
the farmer, as the case may be, or by any of the officers
or servants of the Commissioners or of the farmer.

Power to
Commissioners
to permit
opening of new
private
markets.

405. (1) In any municipality of which the Com-
missioners at a meeting have published an order in this
behalf, no person shall—

- (i) establish a new private market for the sale of
or for the purpose of exposing for sale any
living thing intended for human food, or any
other article of human food, except with the
sanction of the Commissioners at a meeting:
- (ii) without or otherwise than in conformity with
the terms of a license granted by the Com-
missioners at a meeting in this behalf, keep
open any private market or wilfully or
negligently permit any place to be used as
a private market:

Provided that the Commissioners shall not—

- (a) refuse a license for the maintenance of a
market lawfully established at the date of
the publication of such order of the Com-
missioners at a meeting if application be
made within six months from such date,
except on the ground that the place where
the market is established fails to comply
with any conditions prescribed by, or under,
this Act, or
- (b) cancel, suspend or refuse to renew any license
granted under such order or by-laws framed
in this behalf for any cause, other than the

of 1932.]

*(Chapter XVII.—Markets and Slaughter-places.—
Secs. 406—409.)*

failure of the licensee to comply with the conditions of the license or with any provisions of, or made under, this Act.

(2) The Commissioners at a meeting may, by general or special order, cancel any license granted under this section if the private market is closed to the public or if a supply of the articles, for the sale of which the license was granted, is not kept available for sale to the public at such times as may from time to time be fixed by the Commissioners.

406. The Magistrate, on the application of the Commissioners at a meeting, may order any place which has been used as a market without a license under section 405 to be closed as a market-place, and thereupon may take order to prevent such place being used as a market, and no person shall thereafter sell or expose for sale on or in such place any living thing intended for human food or any article of food.

Power to close
unlicensed
places.

407. (1) Notwithstanding anything contained in section 402, the Commissioners at a meeting may, subject to such conditions as they may impose with the approval of the '[Provincial Government]', grant and withdraw licenses, for the use of any premises either within or, with the sanction of the District Magistrate, without the limits of the municipality, for the slaughter of animals or animals of any specified description, for the sale of their flesh for human consumption.

Licensing of
private
slaughter-houses.

(2) When such premises have been fixed by the Commissioners beyond municipal limits, the Commissioners shall have the same power to make by-laws for the inspection and proper regulation of the same as if they were within those limits.

408. No person shall slaughter any animal for the sale of its flesh for human consumption within the municipality at any place other than a municipal slaughter-house or a slaughter-house licensed under section 407.

Prohibition of
slaughter of
animals except
at licensed or
municipal
slaughter-house.

409. The Commissioners at a meeting may, by written notice, require the owner or occupier of any private market,—

Power to require
paving and
draining of
private markets,
and to alter
structures in
such markets.

(a) to cause the whole or any portion of the floor of the market-building or market-place, to be raised or paved with dressed stone or other suitable material,

(b) to cause such drains to be made in or from the market-building or market-place, of such

¹See foot-note 3 on p. 1, *ante*.

*(Chapter XVII.—Markets and Slaughter-places.—
Sec. 410.)*

material, size and description, at such level, and with such outfall as to the Commissioners may appear necessary, and

- (c) to cause a supply of water to be provided for keeping such market-building or market-place, in a clean and wholesome state, and,
- (d) to cause any shop, stall, shed or other structure in any private market to be altered or improved in such manner as the Commissioners at a meeting may consider necessary.

Power to define limits of market and to require provision and maintenance of market approaches, etc.

410. (1) The Commissioners at a meeting may—

- (a) define or determine the limits of any private market or declare what portions of such market shall be made part of the existing approaches, streets, passages and ways to and in such market, and
- (b) after hearing the owner or occupier of such market by written notice, require such owner or occupier to—
 - (i) lay out, construct, alter, clear, widen, pave, drain and light, to the satisfaction of the Commissioners, such approaches, streets, passages and ways to or in such market, and
 - (ii) provide such conveniences for the use of persons resorting to such market, and
 - (iii) provide adequate ventilation and lighting of the market-building or any portion thereof, including shops and stalls,

as the Commissioners may think fit.

(2) The Commissioners at a meeting after hearing the owner or occupier of any private market may, by written notice, require such owner or occupier to maintain in proper order the approaches, streets, passages and ways to and in such market, and such other conveniences as are provided for the use of persons resorting thereto.

(3) The Commissioners shall cause a notice of the limits of any market, defined under sub-section (1), to be affixed in the English, Bengali, Hindi and Urdu languages as they may think necessary on some conspicuous spot on or near the building or place where such market is held.

of 1932.]

*(Chapter XVII.—Markets and Slaughter-places.—
Secs. 411, 412.)*

411. (1) The Commissioners after giving the parties concerned an opportunity of being heard may—

Power to expel person contravening by-laws.

- (a) expel from any municipal market or municipal slaughter-house for such period as they may think fit any person who or whose servant has been convicted of contravening any by-law made under section 414 at the time in force in such market or slaughter-house,
- (b) prevent such person, by himself or his servants, from further carrying on any trade or business in such market or slaughter-house, or occupying any stall, shop, standing, shed, pen or other place therein, and
- (c) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the tenant, or the agent of the tenant of the owner or lessee of any private market or slaughter-house licensed under section 405 or section 407, as the case may be, has been convicted for contravention of any by-law made under section 414 and specified by the Commissioners at a meeting in this behalf, the Commissioners at a meeting may require such tenant or agent to remove himself from any such market or slaughter-house, within such time as may be mentioned in the requisition, and if he fails to comply with such requisition he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or lessee thereof or by the servants of such owner or lessee.

(3) If it appears to the Commissioners at a meeting that in any such case the owner or lessee is acting in collusion with a tenant or agent convicted as aforesaid who fails to comply with a requisition issued under subsection (2) the Commissioners at a meeting may, if they think fit, cancel the license of such owner or lessee in respect of such premises.

412. Every license granted under this chapter shall be in force until the end of the year during which it is granted, and shall be registered in a book to be kept for the purpose, containing the following particulars—

Duration and registration of license.

- (a) the name and address of the owner of the land, and the name and address of the owner of the market or slaughter-house, and of any lessee thereof;
- (b) the extent and boundary of the market or slaughter-house;

(Chapter XVII.—Markets and Slaughter-places.—
Secs. 413, 414.)

- (c) in the case of a market the description of the articles sold and the days on which it will be held.

Registration of
transfers.

413. Every transfer of any interest in such market or slaughter-house shall be registered by the transferee at the municipal office within two months from the date of the transfer, and any market or slaughter-house the transfer of interest in which has not been registered in accordance with the provisions of this section shall be deemed to be land used as a market or slaughter-house, as the case may be, without a license.

By-laws for
licensing,
regulating and
inspecting
certain
businesses.

414. The Commissioners at a meeting may make by-laws—

- (a) for the lay-out, construction, regulation and inspection of markets and slaughter-houses, for the provision of a proper supply of water, the prevention of cruelty, the proper cleaning and general regulation and control of the sanitary condition of such places, the feeding and watering of animals kept in slaughter-houses or in yards attached to slaughter-houses, and the prevention of nuisances and obstruction;
- (b) in the case of any municipal market or municipal slaughter-house for the orderly conduct of business and for fixing the rents and other charges to be levied;
- (c) in the case of any municipal market and any market licensed under section 405 for the prohibition during such hours as they may fix of making purchases by persons other than persons buying for *bona fide* domestic purposes;
- (d) prescribing the conditions on or subject to which and the circumstances in which, and the areas, or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any private market or slaughter-house; and
- (e) in a municipality where a reasonable number of slaughter-houses have been provided or licensed by the Commissioners, controlling and regulating the admission within municipal limits for purposes of sale of the flesh (other than cured or preserved meat) for human consumption of any cattle, sheep, goats or swine slaughtered at a slaughter-house or place not maintained or licensed under this Act.

of 1932.]

(Chapter XVIIA.—Fairs or melas.—Chapter XVIII.
—Weights and Measures.—Secs. 414A—415.)

CHAPTER XVIIA.

Fairs or Melas.

414A. The Commissioners at a meeting may require the owner or lessee of a fair or *mela* or an owner or a lessee of land intending to establish a fair or *mela* thereon, to obtain a license in this behalf from the Commissioners on such terms and conditions, and on payment of such fees as may be prescribed.

Power of Commissioners to grant licenses for fairs or *melas*.

414B. The Commissioners at a meeting may, by public notice issued at least one month before the date of any fair or *mela*, prohibit prostitution within such fair or *mela* or within half a mile thereof.

Prohibition of prostitution within fairs or *melas*.

414C. The ²[Provincial Government] may make rules regulating the granting of licenses for holding fairs or *melas* and fixing the fees in respect thereof.

Rules for fairs or *melas*.

CHAPTER XVIII.

Weights and Measures.

415. (1) Where the Commissioners of any municipality, to which this section has been extended by the ²[Provincial Government], have made by-laws under section 417, prescribing the standard weights and measures to be used within the municipality, they may at a meeting by order published in the prescribed manner prohibit the use within the municipality of any maund, seer or tola weight, or of any cubit measure other than such as conforms with the standard prescribed in the said by-laws.

Standard weights and measures in municipalities.

(2) When such order has been published, any person, authorized by them in this behalf, may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of any goods, food or drug, and may inspect any instruments for weighing, and any weights or measures found therein and test the same with other weights and measures, and may seize any such instruments for weighing, and any such weight or measure which the person so authorized reasonably believes to be false or to contravene any by-laws made by the Commissioners

¹This chapter containing sections 414A, 414B and 414C was inserted by section 36 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

²See foot-note 3 on p. 1, *ante*.

*(Chapter XVIII.—Weights and Measures.—
Secs. 416, 417.)*

under section 417, and may take the same to be examined or tested by the officer who shall be appointed by the Commissioners for the purpose.

(3) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing, and all weights and measures kept therein.

Forfeiture of
false weights and
measures.

416. If it appears to the officer appointed under sub-section (2) of section 415 that the instrument for weighing or the weight or measure is false or contravenes any by-laws made by the Commissioners under section 417, he shall cause such instrument, weight or measure to be forfeited to the Commissioners in order that it may be destroyed or otherwise disposed of by the Commissioners.

Power to make
by-laws.

417. The Commissioners at a meeting may make by-laws—

- (a) prescribing the standard weights and measures to be used within the municipality, namely—
 - (i) Government standard weights, that is to say, a maund consisting of forty seers, a seer consisting of eighty tolas and a tola consisting of one hundred and eighty grains; or
 - (ii) a standard cubit consisting of eighteen inches for the measure of commodities other than land; or
 - (iii) both the weights and the measure of length mentioned in sub-clauses (i) and (ii), respectively;
- (b) providing standards of the weights and measures so prescribed;
- (c) arranging for the safe keeping of such standards;
- (d) fixing times and places for testing and verifying any weight or measure, which is of the same denomination as one of such standards;
- (e) for stamping, in such manner as to prevent fraud any weight or measure which is found to be correct; and
- (f) fixing fees in respect of such verification and stamping.

of 1932.]

(Chapter XIX.—*Food and Drugs*.—Secs. 418—420.)

CHAPTER XIX.

Food and Drugs.

Sale of Food and Drugs.

418. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioners in this behalf—

Licensing of butchers and of sale of meat, etc., outside market.

- (a) carry on in the municipality, or at any municipal slaughter-house without the municipality, the trade or business of a butcher, or
- (b) habitually sell or expose for sale any animal, meat or fish intended for human consumption, in any place other than a municipal market or a private market.

(2) Nothing in clause (b) of sub-section (1) shall apply—

- (a) to the sale of meat, or fish in any hotel or eating-house for consumption on the premises, or
- (b) to fresh fish sold from, or exposed for sale on, a ship or boat in which it has been brought direct to the municipality after being caught at sea or in a river or in private fisheries or sold on the bank of a river or tank from which it was caught.

419. The Commissioners in their discretion may provide and maintain municipal bakeries and sweetmeat shops, and may at any time lease to any person such bakeries and shops on such terms and conditions as may to them seem proper.

Municipal bakeries and sweetmeat shops.

420. (1) In any municipality to which the provisions of this section have been extended by the ¹[Provincial Government], no person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioners in this behalf carry on in the municipality the trade or business of a dairyman or milkman or of a baker, confectioner, ice or aerated-water manufacturer, or sweetmeat maker or of a keeper of a tea-shop, hotel or eating-house.

Licensing of dairymen, bakers, etc.

(2) In extending the provisions of this section to any municipality the ¹[Provincial Government] may exempt any of the trades or businesses mentioned in sub-section (1) from the operation of the section.

¹See foot-note 3 on p. 1, *ante*.

(Chapter XIX.—Food and Drugs.—Secs. 421—424.)

Prohibition of sale of diseased animals or unwholesome articles intended for human food.

421. (1) No person shall sell, store for sale, expose or hawk about for sale, or keep for sale.

(a) any living thing intended to be used as food; or

(b) any other article of food or any drug intended to be used for human consumption,

which is diseased, unsound, unwholesome or unfit for human food, or, in the case of drugs, for medicine.

(2) In any prosecution under this section the court shall, unless and until the contrary is proved, presume that any such living thing, article of food, or drug found in the possession of a person who is in the habit of keeping such living thing or keeping or manufacturing such other article of food or drug for the purpose of human consumption has been so kept or manufactured, as the case may be, for sale by such person.

Prohibition of the keeping of bread-stuffs, etc., otherwise than in covered receptacles.

422. No milk, bread-stuffs, cake, pastry, sweet-meats, confectionery or other article of food intended or commonly used for human consumption without further preparation by cooking shall be sold, exposed or kept or hawked about or stored for sale unless they be kept properly covered or otherwise guarded to the satisfaction of the Commissioners, so that they shall be protected from dust, dirt and flies.

Registry of shops for sale of drugs used in western medical science.

423. No shop or place shall be kept for the retail sale of drugs recognised by the British Pharmacopœia, not being also articles of ordinary domestic consumption, unless the same has been registered in the office of the Commissioners. The Commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises.

Compounder's certificates.

424. (1) No person shall compound, mix, prepare, dispense or sell any drug in any shop or place registered under section 423, unless he holds the prescribed certificate that he is a fit person to be entrusted with such duties.

(2) Any owner, occupier or keeper of any such shop or place, who employs any such uncertified person to perform any one or more of such duties, shall be liable to a fine as provided in this Act, and shall be further liable, at the discretion of the Magistrate, to forfeit his license :

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect by the ¹[Provincial Government].

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter XIX.—Food and Drugs.—Secs. 425—427.)

425. Nothing contained in section 423, or section 424 shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines, whether recognised by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognised by such Pharmacopœia are dispensed upon prescription.

Savings as to sale of drugs used by practitioners of indigenous medicines.

Inspection, seizure and destruction of food and drugs.

426. If the Commissioners, Executive Officer, Health Officer, Sanitary Inspector, or any other officer authorised by the Commissioners in this behalf have or has reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under this Act, the Commissioners, Executive Officer, Health Officer, Sanitary Inspector or other officer as aforesaid may obtain a warrant from a Magistrate to enter at any time by day or by night, without notice, and inspect such place for the purpose of satisfying themselves or himself as to whether any provision of this Act or of any rule or by-law made under this Act, at the time in force, is being contravened thereat.

Power to inspect place where unlawful slaughter of animals or sale of flesh is suspected.

427. (1) The Commissioners, Executive Officer, Health Officer, Sanitary Inspector, or any other officer authorized by the Commissioners in this behalf may—

Power to inspect place where living things, etc., intended for human consumption, are exposed for sale.

(a) at all reasonable times enter into and inspect any place in which any living thing intended for human food or any other article of food or any drug, is deposited for the purpose of sale or of preparation for sale, or to which such living thing, article of food, or drug intended for human consumption is brought for such purpose,

(b) inspect and examine any such living thing or other article of food or drug which may be found in any place referred to in clause (a), and

(c) inspect and examine any living thing intended for human food or any other article of food, or any drug intended for human consumption, which is being hawked about for sale.

(2) if, as a result of such inspection as is provided for in sub-section (1), a prosecution is instituted under this chapter, then the burden of proving that any such living thing, or other article of food or drug as aforesaid was not exposed or hawked about or deposited or

(Chapter XIX.—Food and Drugs.—Secs. 428, 429.)

brought for sale or for preparation for sale, or was not intended for human consumption shall rest with the party charged.

Power to seize living things, etc., intended for human consumption which are diseased, etc.

428. (1) If in the course of an inspection of a place made under section 427 any such living thing appears to the Commissioners, Executive Officer, Health Officer, Sanitary Inspector or other officer duly authorised by the Commissioners in this behalf to be diseased or if any article of food or drug appears to them or him to be unsound, unwholesome or unfit for human food or for medicine, as the case may be, or if any utensil or vessel used for preparing, or containing any such food or drug, which may be found in such place is of such kind or in such state as to render any food or drug prepared or contained therein unwholesome or unfit for human food or for medicine, as the case may be,

they or he may seize and carry away such living thing, article of food, drug, utensil or vessel as aforesaid in order that the same may be dealt with as hereinafter in this chapter provided.

Explanation.—(1) Meat subjected to the process of blowing shall be deemed to be unfit for human food.

(2) A vessel made of any corrosive metal or material notified in this behalf by the ¹[Provincial Government] as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in sub-section (1).

(2) The Commissioners, Executive Officer, Health Officer, Sanitary Inspector or such other officer authorized as aforesaid may, instead of carrying away any living thing, article of food, drug, utensil or vessel seized under sub-section (1), leave the same in such safe custody as they or he thinks fit in order that the same may be dealt with as hereinafter in this chapter provided; and no person shall remove such living thing, article of food, drug, utensil or vessel from such custody or interfere or tamper with the same in any way while so detained.

Destruction of living things, etc., seized under section 428.

429. (1) When any living thing, article of food, drug, utensil or vessel referred to in section 428 is seized under that section, it may, with the written consent (witnessed by two other persons) of the owner or the person in whose possession it was found, be forthwith destroyed and the expenses thereby incurred shall be paid by the owner or person in whose possession such living thing, article of food, drug, utensil or vessel was at the time of such seizure.

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter XIX.—Food and Drugs.—Secs. 430, 431.)

(2) If such consent be not obtained, then, if any food or drug so seized is of a perishable nature, the officer seizing such food or drug may take it before a Magistrate and if it appears to the Magistrate that such food is unsound, unwholesome or unfit for human food, he shall condemn it and order it to be destroyed or so disposed of as to prevent it being sold or used for human food.

(3) A Magistrate shall not be bound to hear the owner of such food before passing an order under sub-section (2) and if in his discretion he deems it necessary to give a hearing to such owner, such hearing shall be merely for the purpose of determining whether such food is unsound, unwholesome or unfit for human food.

430. If any Magistrate is satisfied on the application of the Commissioners, Health Officer, Sanitary Inspector or any other officer authorized by the Commissioners in this behalf that there is just cause to believe that any diseased living thing intended for human food or any food or drug, which is unsound, unwholesome or unfit for human food or medicine is in the possession of any person for the purpose of being sold or offered or exposed for sale within the limits of a municipality, for such consumption, he may grant a warrant to enter upon the premises of such person, and to search for and seize such living thing, article of food or drug.

Sale of unwholesome food or drug.

431. (1) Where any living thing, article of food, drug, utensil or vessel seized under section 428 is not destroyed by consent under sub-section (1) of section 429, or where an article of food so seized which is perishable is not dealt with under sub-section (2) of that section, it shall be taken before a Magistrate as soon as may be after such seizure.

Taking before Magistrate animals, etc., seized under section 428.

(2) If it appears to the Magistrate that any such living thing is diseased or unsound or that any such food or drug is unsound, unwholesome or unfit for human food or for medicine, as the case may be, or that any such utensil or vessel is of such kind or in such state as is mentioned in sub-section (1) of section 428, he shall cause the same to be destroyed at the expense of the person in whose possession it was at the time of its seizure, or to be otherwise disposed of by the Commissioners so as not to be capable of being used as human food or medicine.

(3) If it appears to the Magistrate that any such living thing is not diseased or that any such food or drug is not unsound, unwholesome or unfit for human

(Chapter XIX.—Food and Drugs.—Secs. 432—434.)

food or for medicine, as the case may be, or that any such utensil or vessel is not used for preparing, manufacturing or containing food or drugs which are un-sound, unwholesome or unfit for human food, or for medicine, as the case may be, the person from whose shop or place it was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award him such compensation, not exceeding the actual loss which he has sustained, as the Magistrate may think proper.

Vesting of condemned food or drug in Commissioners.

Food and drugs directed to be destroyed, etc., to be property of Commissioners.

432. When any authority directs in exercise of any powers conferred by this chapter, the destruction of any living thing, food or any drug, or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon be deemed to be the property of the Commissioners.

Slaughter of animals on bona fide religious or ceremonial occasions.

This chapter not to apply to slaughter of animals in certain cases.

433. Nothing in this chapter shall apply to the slaughter of animals for a *bona fide* religious purpose or on a ceremonial occasion.

Purity of milk supply.

Regulation of dairies and milk-supply.

434. The Commissioners at a meeting may, and when required by the ¹[Provincial Government] shall, make by-laws regarding all or any of the following matters:—

- (a) the registration of all dairymen, or persons selling milk, and dairies within the municipality;
- (b) the inspection by the Commissioners or persons authorized by them of dairies and dairy cattle within or without the municipality from which milk is supplied to the inhabitants of the municipality and of persons in or about dairies who have access to the milk or any milk-receptacle;
- (c) the duties of dairymen or persons selling milk in connection with the occurrence of infectious or contagious disease amongst persons residing or employed in or about their premises, and the furnishing by them of the names and addresses of their customers and sources of supply, and their duties in

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter XIX.—Food and Drugs.—Chapter XX.—Places for disposal of the Dead and Registration of Births and Deaths.—Sec. 435.)

connection with reporting the occurrence in any dairy cattle of diseases which are communicable to man and of any disease of the udder;

- (d) the conveyance and distribution of milk, and the labelling or marking or receptacles used for the conveyance of milk;
- (e) the ventilation, including air-space, lighting, cleansing, drainage and water-supply of dairies;
- (f) the health and good condition of the milch-cattle in dairies;
- (g) the cleanliness of dairies, milk-receptacles, dairy cattle and all persons employed in or about dairies;
- (h) the protection of milk against infection or contamination;
- (i) the prevention of the sale of infected, contaminated, or dirty milk, the prohibition of the sale and the disposal of any milk suspected of being infected, contaminated or dirty, and the closing of any dairy where such milk is kept for sale or the exclusion therefrom of any animal, the milk from which there is reason to believe has conveyed or is likely to convey any infectious disease; and
- (j) any other measures and precautions which in the opinion of the '[Provincial Government]' may be necessary to secure and maintain the purity of the milk-supply.

CHAPTER XX.

Places for disposal of the Dead and Registration of Births and Deaths.

435. Within three months from the date of the publication of a notification by the '[Provincial Government]' extending this section to any municipality every place therein which is used as a burial or burning-ground for corpses shall be registered as such by the owner thereof in the office of the Commissioners but no fee shall be charged for such registration.

Registration of existing burial or burning-grounds.

¹See foot-note 3 on p. 1, ante.

*(Chapter XX.—Places for disposal of the Dead and
Registration of Births and Deaths.—Secs.
436—439.)*

Permission to
make or resume
burial and
burning-grounds
and registration
of same.

436. The Commissioners at a meeting may in their discretion at any time grant permission for the formation and making of burial or burning-grounds, or for the renewed use of such grounds as, owing to disuse, have not been registered under section 435 and when such permission has been granted shall cause such grounds to be registered.

Provision of
places to be
used as burial
or burning-
grounds.

437. The Commissioners at a meeting may, from time to time, out of the Municipal Fund, with the sanction of the Commissioner of the Division, provide fitting places either within or without the limits of the municipality to be used as burial or burning-grounds, and may impose such fee, as may be fixed in this behalf by the Commissioners at a meeting with the approval of the '[Provincial Government], in respect of every corpse buried or burnt within such burial or burning-grounds.

Prohibition to
bury or burn in
unregistered
ground.

438. (1) After the expiration of the three months mentioned in section 435, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the Commissioners as an open burial or burning-ground or has been provided by the Commissioners for the purpose; but the Commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

(2) Except with the special permission of the Commissioners no body shall be exhumed from any burial-ground except under the provisions of section 176 of the Code of Criminal Procedure, 1898; or of any other relevant enactment for the time being in force.

Act V of
1898.

Power to order
certain burial
and burning-
grounds to be
closed.

439. (1) The Commissioners at a meeting may, by public notice, order any burial or burning-ground, whether registered under section 435 or provided under section 437, which in their opinion is dangerous or likely to be dangerous to the health of persons living in the neighbourhood, or to be offensive to such persons, to be closed from a date specified in the notice, and shall, in such case, if no suitable place for burial or burning exists at a reasonable distance, provide a fitting place for the purpose.

(2) When a notice is issued ordering the closing of any burial-ground under sub-section (1), private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the Commissioners at a meeting may impose in this behalf:

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XX.—Places for disposal of the Dead and Registration of Births and Deaths.—Secs. 440—443.)

Provided that the limits of such burial-places are defined and that they shall only be used for the burial of members of the family of the owners thereof.

(3) If the Commissioners at a meeting are, at any time, of opinion that any place formerly used as a burial or burning-ground which has been closed under this section or under any other enactment or authority has, by lapse of time, become no longer dangerous to health and may, without risk of danger, be again used for the said purpose, they may direct that it be reopened for such purpose and their order shall be noted in the register kept under section 435.

440. Any person aggrieved by any order made by the Commissioners under the powers conferred upon them by section 439 may appeal to the ¹[Provincial Government], whose decision shall be final.

Appeals from orders under section 439.

441. (1) After the expiration of not less than twenty-four hours from the death of any person, the Commissioners may cause the corpse of such person to be burnt or buried. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

Power to cause corpses to be burnt or buried according to the religious tenets of the deceased.

(2) If a person dies in a hospital or temporary place of reception for the sick from any infectious disease, and the Health Officer or any registered medical practitioner certifies that in his opinion it is desirable, in order to prevent the risk of communicating any infectious disease or of spreading infection, that the body shall not be removed from such hospital or place, except for the purpose of being forthwith buried or cremated, no person shall remove the body except for that purpose; and the body when taken out of such hospital or place for that purpose shall be forthwith taken direct to the place of burial or cremation and there disposed of.

442. The Commissioners at a meeting may, from time to time, out of the Municipal Fund, provide for the burial and burning of the dead bodies of paupers, free of charge, within the limits of the municipality.

Power to provide for burial of paupers free of charge.

443. (1) The Commissioners may, from time to time, grant licenses to persons applying for the same, for the sale at burning-grounds of fuel and other articles used for the cremation of dead bodies, and in case any such license is granted shall, from time to time at a

Power to license fuel shops at burning-grounds.

¹See foot-note 3 on p. 1, ante.

[Ben. Act XV

(Chapter XX.—Places for disposal of the Dead and Registration of Births and Deaths.—Secs. 444—446.)

meeting, prescribe a scale of rates for the sale of such articles; and no person not so licensed shall, within three hundred yards of any such burning-grounds, sell or offer for sale any such fuel or other article.

(2) The Commissioners may, on good and sufficient cause, revoke or withdraw any such license as they may think fit, and any person to whom such license is granted, who charges for the sale of any such articles at any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled and shall be liable also to fine as provided in this Act.

Registration of
births and
deaths.

444. The Commissioners, when required by the ¹[Provincial Government] to do so, shall provide at a meeting for the registration of births and deaths within the limits of the municipality in accordance with the provisions of the Bengal Births and Deaths Registration Act, 1873, or any other similar Act for the time being in force.

Ben. Act
IV of
1873.

Appointment
of Registrar and
of Sub-Registrars
at burning-ghats
and burial-
grounds.

445. (1) This section shall be construed as being in addition to and not in derogation of the provisions of the Bengal Births and Deaths Registration Act, 1873.

(2) The Commissioners, when required by the ¹[Provincial Government] to do so, shall appoint at a meeting a person to be Registrar of Births and Deaths for the whole municipality and may also appoint and maintain at any burning-ghat or burial-ground a Sub-Registrar for the registration of all corpses brought to such burning-ghat or burial-ground for cremation or interment.

Information
required by
Bengal Act IV
of 1873 to be
given to such
Sub-Registrar.

446. Whenever a Sub-Registrar has been appointed for any burning-ghat or burial ground under section 445, information of the particulars required by section 8 of the Bengal Births and Deaths Registration Act, 1873, to be known and registered may be given in respect of the death of any person whose body is brought to such burning-ghat or burial-ground for cremation or interment to such Sub-Registrar, and information so given shall be deemed to be information given to the Registrar of the district as required by the said section.

Section 9 of the said Act shall be applicable to all Sub-Registrars appointed under this Act.

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XX.—Places for disposal of the Dead and Registration of Births and Deaths.—Secs. 447, 448.)

Ben. Act
IV of 1873.

447. Whenever a birth or death occurs in any hospital within the limits of any municipality in respect of which the '[Provincial Government]' has directed that all births and deaths shall be registered under the Bengal Births and Deaths Registration Act, 1873, it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such birth or death to the Commissioners in such form as the '[Provincial Government]' may prescribe, and in such case no other person shall be required to give information of such birth or death to a Registrar under the said Act or to a Sub-Registrar under this Act.

Information of
births and
deaths in
hospital.

448. The '[Provincial Government]' may make rules—

Power to make
rules.

- (i) requiring the father or mother of every child born in any municipality or the occupier of the building in which such child is born or the medical practitioner or midwife in attendance at the time of birth within such specified period as may be fixed to give information of such birth to the Health Officer or Sanitary Inspector or other officer appointed for the purpose, and to furnish such particulars as may be prescribed by the '[Provincial Government]' in this behalf;
- (ii) requiring the nearest relative present at the death of, or in attendance during the last illness of, any person dying in any municipality or the medical practitioner, if any, who attended such person in his last illness or every other person present at the death, or, in their default, the occupier of the building in which the death occurred or some other person living in the building to report within a specified period such death to the Health Officer, Sanitary Inspector, Sub-Registrar appointed under section 445 or other officer appointed for the purpose, giving such particulars as the '[Provincial Government]' may prescribe;
- (iii) controlling and regulating the use and management of burial and burning-grounds and the disposal of corpses;
- (iv) generally for securing the better registration of births and deaths.

¹See foot-note 3 on p. 1, ante.

*(Chapter XXI.—Nuisance—Sec. 449.)***CHAPTER XXI.****Nuisance.****Nuisance.**

449. (1) The powers conferred by this chapter shall be deemed to be in addition to and not in derogation of any powers conferred by the other provisions of this Act.

(2) (a) The condition of—

- (i) any premises or part thereof of such a construction or in such a state or so situated or so dirty as to be a cause of annoyance to the inmates thereof, the neighbours or the public, or injurious or dangerous to health or unsafe, including places infested by, or providing haunts for mosquitoes or mosquito larvæ, flies or fly maggots, hookworm larvæ or ova, or rats or other noxious animals, or insects, and thereby liable to favour the spread of infectious disease;
- (ii) any street, tank, pool, ditch, gutter, water-course, sink, cistern, water-closet, earth-closet, privy, urinal, cesspool, drain, dungpit or ash-pit so foul or in such a state or so situated as to be a cause of annoyance to the inmates of the premises, the neighbours or the public, as the case may be, or injurious or dangerous to health;
- (iii) any premises by reason of abandonment or disputed ownership or for any other reason remain untenanted and thereby become a resort of idle and disorderly persons;
- (iv) any school, factory, workshop or other trade premises so unclean as to be a cause of annoyance to the inmates, the neighbours or the public, or injurious to health, or not so ventilated as to render harmless, as far as practicable, all gases, vapours, dust or other impurities, generated in the course of the work carried on therein, that are a cause of annoyance to the inmates, the neighbours or the public or injurious to health, or so overcrowded as to be injurious to the health of the persons therein engaged or employed, or not provided with sufficient and suitable privy or urinal accommodation;
- (v) any offensive trade or business so carried on as to be injurious to health or unnecessarily offensive to the public;

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(Chapter XXI.—Nuisance—Sec. 449.)

- (vi) any well, tank or other water-supply injurious or dangerous to health;
- (vii) any stable, cowshed or other building or enclosure in which any animal or animals are kept in such a manner or in such numbers as to be a cause of annoyance to the inmates of the premises, the neighbours or the public or injurious or dangerous to health;
- (viii) any burial or burning-ground which in the opinion of the Commissioners at a meeting is injurious or dangerous or likely to be injurious or dangerous to the health of persons living in the neighbourhood or to the public or offensive to such persons;
- (ix) any accumulation or deposit, including any deposit of animal or vegetable or mineral refuse, which is offensive to the neighbours or to the public or injurious or dangerous to health or any deposit of offensive matter, refuse or offal or manure within fifty yards of any public street, wherever situated; and

(b) any act, omission, condition or thing which the ¹[Provincial Government] by notification shall declare to be a nuisance, or which after due inquiry by the Commissioners on the complaint of two or more persons residing in the neighbourhood is found by the Commissioners to be a cause of annoyance to the neighbours or to the inmates of the premises affected or to the public or to be dangerous or injurious to health;

shall be deemed to be a nuisance to be dealt with under the provisions of this chapter:

Provided that no nuisance shall be deemed to have been committed in respect of any accumulation or deposit necessary for the effectual carrying on of any business, trade or manufacture, if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business, trade or manufacture, and that the best available means have been taken for preventing injury or danger thereby to the public health.

“Author of a nuisance” in this chapter means a person by whose act, default, or sufferance the nuisance is caused, exists or is continued, whether he is an owner or occupier or both owner and occupier or any other person.

¹See foot-note 3 on p. 1, *ante*.

(Chapter XXI.—Nuisance.—Secs. 450—452.)

Inspection of Municipality for ascertaining existence of nuisance.

450. (1) The Commissioners shall cause to be made from time to time inspection of the municipality with a view to ascertain what nuisances exist calling for removal under the powers of this Act, and shall enforce so far as possible the provisions of this Act in order to remove the same, and otherwise put in force the powers vested in them relating to public health, so as to secure the proper sanitary condition of all premises within the municipality.

(2) If the Commissioners or Health Officer or a Sanitary Inspector have or has reasonable grounds for believing that a nuisance exists in any premises, they or he may make an inspection of such premises at any hour, when the operations suspected to cause nuisance are believed to be in progress or are usually carried on or when the special conditions suspected to cause the nuisance are believed to exist, and may cause such work to be done as may be necessary for an effectual examination of the said premises, including the opening of the ground or surface, where necessary, and the testing of the drains.

(3) Where the ground or surface has been opened and no nuisance is found to exist, the Commissioners shall restore the premises at their own cost.

Municipal officer to give information as to nuisances.

451. Information of any nuisance under this chapter may be given to the Commissioners by any person and every municipal officer shall bring the existence of any nuisance to the notice of the Commissioners or cause it to be brought to their notice.

Notice to remove nuisance.

452. The Commissioners, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or if he cannot be found, then on the owner or occupier of the building or premises on which the nuisance arises or continues, requiring him to remove it within the time specified in the notice and to execute such works and do such things as may be necessary for that purpose and if the Commissioners think it desirable (but not otherwise) specifying any works to be executed to prevent a recurrence of the said nuisance:

Provided that—

(a) where the nuisance arises from any want or defect of a structural character, or where the building or premises are unoccupied, the notice shall be served on the owner;

(b) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the owner or occupier of the

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(Chapter XXI.—Nuisance.—Secs. 453, 454.)

building or premises, the Commissioners shall remove the same and may do what is necessary to prevent the recurrence thereof.

453. (1) If the person on whom a notice to remove a nuisance has been served under section 452 fails to comply with any of the requirements thereof within the time specified, or if the nuisance, although removed since the service of the notice is in the opinion of the Commissioners likely to recur on the same premises, the Commissioners shall cause a complaint relating to such nuisance to be made before a Magistrate, and such Magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

Procedure in case owner fails to comply with notice.

(2) If the Magistrate is satisfied that the alleged nuisance exists, or that, although removed, it is likely to recur on the same premises, he shall make—

(a) on the author thereof, or the owner or occupier of the premises, as the case may be, an order requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence, or an order both requiring the removal and prohibiting the recurrence of the nuisance, or

(b) an order on the Commissioners directing them to remove or prevent the recurrence of the nuisance or both, at the expense of the author thereof or the owner or occupier of the premises, as the case may be.

(3) Before making any order the Magistrate may, if he thinks fit, adjourn the hearing or further hearing of the case until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(4) Any costs incurred by the Commissioners in executing an order of the Magistrate under clause (b) of sub-section (2) shall be payable on demand, and if not paid on demand, may be recovered by distress and sale of the movable property of the defaulter.

454. Whenever it appears to the satisfaction of the Magistrate that the author of the nuisance or that the owner or occupier of the premises is not known or cannot be found, the Magistrate may at once order the Commissioners to execute the works thereby directed and

Magistrate may order local authority to execute works in certain cases.

(Chapter XXI.—Nuisance.—Chapter XXII.—General.
—Secs. 455—457.)

the cost of executing the same shall be payable on demand by the defaulter, if subsequently found, and if not paid on demand within fifteen days from the date of the execution of the work, may be recovered by distress and sale of the movable property of the defaulter, if known.

**Award of
compensation.**

455. The Magistrate in making an order under this chapter may, if he is of opinion that the person on whom a notice has been served to remove a nuisance or any other person would have been entitled to compensation, had the proceedings been taken otherwise than under this chapter, award such compensation to such person.

CHAPTER XXII.

General.

Education.

**Education
Committee.**

456. In every municipality there shall be constituted an Education Committee consisting of—

- (a) an educational officer or the person interested in education appointed by the ¹[Provincial Government];
- (b) not less than two, or more than four Commissioners appointed from among themselves by the Commissioners at a meeting; and
- (c) not more than three residents of the municipality not being Commissioners, appointed by the Commissioners at a meeting.

The Education Committee shall appoint its own Chairman and Secretary.

**Duties of
Education
Committee.**

457. It shall be the duty of the Education Committee, subject to the control of the Commissioners at a meeting and to the rules made by the ¹[Provincial Government]—

- (i) to superintend all matters connected with the finance, accounts, maintenance and management of all schools, libraries and museums maintained by the Commissioners, and
- (ii) to determine the conditions to be complied with when grants are made by the Commissioners to schools, libraries and museums.

¹See foot-note 3 on p. 1, *ante*.

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(Chapter XXII.—General.—Secs. 458—460.)

458. (1) The ¹[Provincial Government] may transfer to the Commissioners such funds as it may deem necessary for expenditure on—

Transfer of funds by Government for education.

- (a) the improvement of any school or class of schools within the municipality under private management; or
- (b) the maintenance or improvement of any school or class of schools maintained and managed by the Commissioners; or
- (c) the provision of buildings to be used as students' hostels in connection with any school mentioned in clause (a) or clause (b).

(2) The Commissioners shall be charged with, and be responsible for, the proper distribution of funds transferred under sub-section (1).

459. The ¹[Provincial Government] may make rules—

Powers to make rules regarding maintenance and management of schools.

- (i) determining the classes of schools which may be maintained or aided by the Commissioners;
- ²(ia) regulating the maintenance and management of such schools;
- (ii) regulating the construction and repair of buildings connected with such schools;
- (iii) regulating the appointment and salaries of masters and assistant masters of such schools;
- (iv) regulating the establishment of scholarships generally, or for the furtherance of technical or any other special form of education; and
- (v) regulating the conduct of business and duties of Education Committees.

³Hospitals and dispensaries.

⁴459A. The ¹[Provincial Government] may make rules regulating the establishment, maintenance and management of hospitals and dispensaries by the Commissioners.

Power to make rules regulating the establishment, maintenance and management of hospitals and dispensaries.

Sarais, dharamsalas and lodging-houses.

460. The Commissioners at a meeting may make by-laws providing—

Power of Commissioners to regulate sarais, dharamsalas and lodging-houses by by-law.

- (a) for the registration and inspection of *sarais*, *dharamsalas* and other lodging-houses;

¹See foot-note 3 on p. 1, *ante*.

²Clause (ia) was inserted by s. 37 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936.)

³This sub-heading and section 459A were inserted by s. 38, *ib id*.

[Ben. Act XV

(Chapter XXII.—General.—Secs. 461, 462.)

- (b) for the prevention of overcrowding and the promotion of cleanliness and ventilation therein;
- (c) for the notices to be given and the precautions to be taken in the case of the outbreak therein of any infectious or contagious disease; and
- (d) generally for the proper regulation of *sarais*, *dharamsalas* and other lodging-houses.

Hackney-carriages.

Power to
Commissioners to
cancel license
issued to the
owner or driver
of any hackney-
carriage.

461. The Commissioners may cancel any license issued to any owner or driver of any hackney-carriage under the Calcutta Hackney-Carriage Act, 1919, as extended to any area within a municipality, if such owner or driver does not at such times as may from time to time be fixed by the Commissioners keep available for hire to the public, and ply for hire when required, the hackney-carriage and horses in respect of which the license has been granted under that Act; and on cancellation of such license the Commissioners may require such owner or driver, or any other person in whose possession the driver's ticket or license may be, to surrender the same to them forthwith.

Ben. Act I
of 1919.*Survey.*

Survey of a
municipality.

462. (1) The Commissioners at a meeting may order that a survey or demarcation of boundaries shall be made of any or all of the lands and buildings situated in the municipality and may move the ¹[Provincial Government] to direct that all or any of the provisions of the Calcutta Survey Act, 1887, shall, so far as may be practicable, apply and be extended to such municipality. ²[and if the Provincial Government] so directs then notwithstanding anything contained in that Act, all or any of its provisions shall, *mutatis mutandis*, apply and extend to such municipality].

Ben. Act I
of 1887.

(2) Where it appears to the ¹[Provincial Government] that a survey or demarcation of boundaries should be made of all or any of the lands and buildings situated in a municipality, it may, by order, call on the Commissioners to make such a survey or to show cause why they should not be required to do so.

(3) The ¹[Provincial Government] shall consider any objections and suggestions, which may be submitted by the Commissioners at a meeting and may either withdraw its order or direct that a survey shall be made.

¹See foot-note 3 on p. 1, *ante*.

²These words were added by s. 39 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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(Chapter XXII.—General.—Secs. 463—465.)

(4) Where the order is made absolute, the '[Provincial Government] may depute any person to make the survey' and may require the Commissioners to defray from the Municipal Fund the cost of such survey, including the remuneration of the person deputed by the '[Provincial Government]'.
(5) Where a survey has been made under this Act of all or any of the lands and buildings situated in a municipality, the '[Provincial Government] may call on the Commissioners to make provision for the maintenance of such survey.

463. The Commissioners at a meeting may make by-laws—

Powers to make by-laws for maintenance of survey maps.

- (a) requiring the owner of any land or building to give notice to them of any alteration in the boundary of such land or of the erection of any new building thereon or of any material alteration or addition to a building,
- (b) providing for the erection from time to time and for the maintenance by owners of lands or buildings of suitable boundary marks defining the limits of all lands which form separate holdings.

Map of municipal properties and municipal institutions.

464. The Commissioners shall maintain at the municipal office a map showing the position of all lands and buildings belonging to the Commissioners and of all municipal institutions and all public streets and drains.

Commissioners to maintain map showing all municipal properties, public streets and drains.

Dogs.

464A. The Commissioners may, by public notice, require that every dog shall wear a collar to which shall be attached a token to be issued by the Commissioners, and may, from time to time, by like notice, announce that, with effect from a date to be specified in the notice, every dog found wandering about streets or public places without a collar bearing such token will be liable to be destroyed or otherwise disposed of.

Power to require that dogs shall carry tokens.

465. (1) The Commissioners, by any person authorized by them in this behalf, may—

Disposal of mad and stray dogs.

- (i) destroy or cause to be destroyed, or confine, or cause to be confined, for such period as the

¹See foot-note 3 on p. 1, *ante*.

²Section 464A was inserted by s. 40 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter XXII.—General.—Secs. 466—468.)

Commissioners may direct, any dog suffering from any loathsome disease or from rabies, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected to be suffering from rabies; and

¹(ii) after a date specified in this behalf in a notice published under section 464A, destroy or cause to be destroyed or otherwise dispose of any dog found wandering about streets or public places without a collar bearing a token issued by the Commissioners under section 464A.

(2) No damages shall be payable by the Commissioners or by any person authorized under this section in respect of any dog confined, destroyed or otherwise disposed of under this section.

Noxious animals.

Rewards for
destruction of
noxious animals.

466. The Commissioners at a meeting may offer rewards for the destruction of noxious animals within the limits of the municipality.

Licenses.

Holder of
license to
produce it
when required.

467. Every person to whom a license has been granted under this Act shall, at all reasonable times while such license remains in force, if required so to do by the Commissioners or by any person authorized by them in that behalf, produce such license to the Commissioners or to the person so authorized.

Suspension or
revocation of
license, etc.

468. Any Magistrate before whom any person is convicted of an offence against the provisions of this Act, relating to the use of any place for a purpose for which a license is required or of the non-observance of any of the by-law or conditions relating thereto made or imposed under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license, and the Commissioners, upon the conviction of any person for a second or subsequent like offence, may cancel his license.

¹Clause (ii) was substituted for the original clause (ii) by s. 41 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

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(Chapter XXIII.—Hill Municipalities.—
Secs. 469—471.)

CHAPTER XXIII.

Hill Municipalities.

General.

469. The provisions of this chapter shall apply only to hill municipalities and shall be construed in modification of, or as supplementing, other provisions of this Act in their application to such municipalities:

Application of
Act to hill
municipalities.

Provided that sections 233, 237, 274 and 275 shall not apply to hill municipalities.

Definitions.

470. (1) The definition of drain under section 3 of this Act shall, in the case of a hill municipality, be deemed to include a *jhora*, water-course or natural drainage line, and the '[Provincial Government] may, by notification, define for the purpose of this Act the limits of any *jhora*, water-course, channel or natural drainage line within a hill municipality.

Extension of
definitions of
"drain" and
"masonry
building".

(2) For the purposes of Chapter X in its application to hill municipalities the term masonry building shall be deemed to include a framed building.

471. In this chapter—

Definitions.

- (i) "Government road" means a road, street, square, court, alley or passage maintained¹ by the Central or the Provincial Government] or at the public expense;
- (ii) "private bridge" means any bridge which is not a public bridge as defined in this section;
- (iii) "private drain" means any drain which is not a public drain as defined in this section;
- (iv) "private road" means any road, street, square, court, alley or passage which is not a public road or Government road as defined in this section;
- (v) "public bridge" means a bridge on or over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners;

¹See foot-note 3 on p. 1, ante.

²These words were substituted for the words "by the Government" by schedule IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter XXIII.—Hill Municipalities.—
Secs. 472—474.)

- (vi) “public drain” means any drain which is vested in the Commissioners;
- (vii) “public road” means a “public street” as defined in section 3 of this Act, but except in sections 231, 237, 251, 253 and rule 5 of Schedule VIII shall be deemed to exclude a Government road.

Roads.

**Absolute closing
of public road.**

472. (1) If it appears to the Commissioners that any public road or part thereof—

- (a) threatens the stability or security of any hill-side or bank or any immovable property thereon, or
- (b) in consequence of its condition or its situation with reference to any adjacent hillside or bank cannot be efficiently maintained or required except at a cost, which, in their opinion, is unreasonable,

the Commissioners may, by public notice, declare such road or part to be absolutely closed:

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings adjacent to such road or part, if no such means of access already exist.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in such manner as the Commissioners may determine:

Provided that, if the Commissioners determine to sell or to let on lease or otherwise transfer any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

**Control over
private roads and
bridges.**

473. All private roads and bridges shall be subject to the inspection and control of the Commissioners.

**Control over
construction or
alteration of
private roads.**

474. (1) Every person who intends to construct, re-construct or alter a private road shall send to the Commissioners an application for permission to execute the work.

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*(Chapter XXIII.—Hill Municipalities.—
Secs. 475—478.)*

(2) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule VII.

(3) Every person applying for permission to construct, re-construct or alter a private road must further mark out on the ground the alignment of the road for inspection by the Commissioners or an officer authorized by them in this behalf.

(4) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule VII.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

475. If it appears to the Commissioners that any private road is so situated or is in such a condition as to threaten the stability or security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner—

Re-construction, etc., of private road.

- (a) to re-construct, re-grade, divert, alter or repair such road, or
- (b) to make a revetment or retaining-wall on either side or both sides of such road, or
- (c) to take such other order with such road as may be specified in the notice.

476. If it appears to the Commissioners that waterway ought to be provided on any private road or that the waterway provided on any private road ought to be enlarged they may, by written notice, require the owner of the road—

Provision or enlargement of waterway on private road.

- (a) to provide and maintain waterway, or
 - (b) to enlarge the existing waterway,
- as the case may require.

477. Whenever any private road is to be constructed, re-constructed, re-graded, diverted, altered or repaired, and whenever waterway for any private road is to be provided or enlarged, in pursuance of section 474, section 475 or section 476, the work shall be executed in accordance with the rules contained in Schedule VII, so far as they are applicable to the particular case.

Rules as to construction, etc., of private roads and bridges.

478. If it appears to the Commissioners that the existence of any private road threatens the stability or

Power to close private road.

*(Chapter XXIII.—Hill Municipalities.—
Secs. 479—481.)*

security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner to close the road and to take such order with the site thereof as they may consider necessary for the stability or security of such hillside, bank or property and as may be prescribed in the notice:

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense.

Removal of materials falling upon or into public road or drain.

479. (1) Whenever any building, wall, revetment or other erection, or any part thereof, or any stone, tree, soil or debris from private premises, falls down and obstructs any public road or drain, the Commissioners may cause the obstruction to be removed.

(2) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to take away the same.

(3) If, in the course of removing any obstruction under sub-section (1), it be found necessary to break up or blast any stone or to cut up any tree, the work shall be executed by the Commissioners; and if any persons desire, in pursuance of a notice affixed under sub-section (2), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.

(4) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners, the same shall become the property of the Commissioners.

Removal of debris falling upon or into private road or drain.

480. If it appears to the Commissioners that any debris which has fallen upon or into any private road or drain ought to be removed, they may—

- (a) cause such debris to be removed at the expense of the owner of the road or drain, or
- (b) by written notice require the said owner to remove the debris.

Power to close a road or part of a road for repairs or other public purpose.

481. The Commissioners may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain or bridge, or for any other purpose:

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(Chapter XXIII.—Hill Municipalities.—
Secs. 482, 483.)

provided that the Commissioners so closing any road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road.

Drains.

482. (1) Every person who intends to construct, re-construct, alter, stop-up or obstruct any private drain shall send to the Commissioners an application for permission to execute the work.

Control over construction or alteration of private drains.

(2) Every such application shall be accompanied by a general description of the drain.

(3) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in Schedule VIII.

(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

483. (1) The Commissioners may, by written notice, require the owner of any land or building—

Re-construction, repair, etc., of private drains, gutters, etc.

- (a) to re-construct, enlarge, extend, alter, repair, make efficient, stop-up or remove any drain belonging to such land or building, or
- (b) to alter the inclination or direction of any such drain, or
- (c) to provide movable coverings or gratings for any such drain of such nature as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet or of junction with some other drain as may be specified in the notice.

(2) The Commissioners may, by written notice, require the owner or occupier of any building—

- (a) to provide and maintain a sufficient number of suitable roof-gutters and down pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified, in notice, or
- (b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(3) The said gutters must be of such dimensions, and have such slope, and the said pipes must be of such

*(Chapter XXIII.—Hill Municipalities.—
Secs. 484—486.)*

dimensions, and the bends in such pipes must be made at such angles, as may be prescribed by rules made by the Commissioners at a meeting.

Power to require provision of private drains.

484. If any land or building is not drained to the satisfaction of the Commissioners, they may, by written notice, require the owner to provide a drain therefor, at such inclination, and to such point of outlet or of junction with some other drain as may be specified in the notice.

Private drainage in combination.

485. (1) If it appears to the Commissioners that any lands or buildings belonging to different owners can be drained, or the drainage thereof improved, more economically or advantageously in combination than separately, the Commissioners may cause such lands or buildings to be drained, or the drainage thereof to be improved, in such manner as they may consider suitable.

(2) The Commissioners may cause any drain which has been provided or improved under sub-section (1) to be maintained or repaired in such manner as they may consider suitable.

(3) All expenses incurred under sub-section (1) or sub-section (2) in connection with the drainage of any lands or buildings, shall be paid by the owners of such lands or buildings in proportion to the benefits derived by them respectively.

(4) The said proportion shall be determined by the Commissioners.

Safety of the hillside.

Power where buildings, etc., threaten the stability of other immovable property.

486. If it appears to the Commissioners that any building or portion of a building, or anything affixed to a building or any wall or structure on any land, is in such a condition as to threaten the stability or security of any hillside or bank or any immovable property thereon,

the Commissioners may, by written notice, require the owner of such land or building—

- (a) to take down such building, portion, thing, wall or structure and remove the materials, or
- (b) to secure or repair such building, portion, thing, wall or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof or to take such other order therewith as may be prescribed in the notice, and

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*(Chapter XXIII.—Hill Municipalities.—
Secs. 487—489.)*

- (c) in case (a), also to take such order with the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon, as may be prescribed in the notice.

487. If it appears to the Commissioners that the condition or situation of any hillside or bank, being private property, is such as to threaten the safety of any building, and that the safety of such building cannot be ensured by taking action under section 486 and also that such building threatens the safety of some other building, they may, by written notice, require the owner of such first mentioned holding—

Power where hillside or bank threatens the safety of buildings.

- (a) to take down the building and remove the materials, or
- (b) to secure the building, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice and may also, by written notice, require the owner of such other building to secure the same, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice.

488. If it appears to the Commissioners that the condition or the situation of any land, being private property, is such as to threaten the stability or security of any hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of the land to do all or any of the following things, namely:—

Power to require revetting, turling or sloping.

- (a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land;
- (b) to re-construct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land;
- (c) to turf the land or any portion thereof;
- (d) to slope the land or any portion thereof.

489. If any owner to whom a notice is issued under section 488 represents to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly and substantially benefit the owners of any adjacent buildings or land,

Execution of work where owners of adjacent property would be benefited.

*(Chapter XXIII.—Hill Municipalities.—
Secs. 490—493.)*

the Commissioners may, after hearing all the owners concerned, themselves cause the said work to be executed;

and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.

Power to execute work in combination.

490. If it appears to the Commissioners that lands or buildings belonging to two or more owners can be protected, by the execution of works of the nature referred to in section 488, more economically or advantageously in combination than separately,

the Commissioners may themselves cause such works or any of them to be executed, maintained and kept in repairs;

and the expenses thereby incurred shall be recovered from the said owners, in such proportion as the Commissioners may direct.

Power to execute works where public road, drain, revetment or retaining-wall is affected.

491. Notwithstanding anything contained in section 488, the Commissioners may, at any time, themselves cause any revetment, retaining-wall or toe-wall to be constructed, re-constructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall;

and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land in such proportions as the Commissioners may direct.

Rules as to revetting, turfing and sloping.

492. Whenever any revetment, retaining-wall or toe-wall is to be constructed, re-constructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped in pursuance of sections 475, 486, 487, 488, 489, 490 or 491, the work shall be executed in accordance with the rules contained in Schedule IX, so far as they are applicable to the particular case.

Control over occupation of buildings.

Power to prohibit occupation of unsafe or insanitary building.

493. (1) If it appears to the Commissioners that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe.

they may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy the building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.

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Secs. 494—497.)

(2) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective,

they may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction.

Appeal.

494. (1) The ¹[Provincial Government] may, by notification in the ²[*Official Gazette*], appoint an Engineer to hear appeals under this Act in respect of hill municipalities.

Appeal to specially appointed Engineer.

(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under sections 364, 474, 482, 485, 486, 487, 488, 489, 490, 491 or 493.

495. An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of sections 485, 488, 490 or 491.

Appeal to Commissioner of the Division.

496. Every appeal under section 494 or section 495 must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made :

Limitation of time for appeal.

Provided as follows :—

(a) if in any case the said period expires on a day when the office of the aforesaid Engineer, or Commissioner is closed, the appeal may be presented on the day that the said office is reopened;

(b) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal within such period.

497. (1) In dealing with any appeal preferred to him under section 495, the Commissioner shall be assisted by two assessors, who shall be selected and summoned by him for each appeal or group of appeals from a list to be prepared annually by the Deputy Commissioner :

Assessors in appeals to Commissioner of the Division.

Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his absence.

¹See foot-note 3 on p. 1, *ante*.

²See foot-note 1 on p. 6, *ante*.

(Chapter XXIII.—Hill Municipalities.—
Secs. 498, 499.)

(2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioner shall not be bound to conform to their opinions.

Record of
decision on
appeal or
reference.

498. (1) If the Engineer appointed under section 494, or the Commissioner of the Division, rejects any appeal preferred to him under this Act, he shall, by written order, specifically state the grounds for such rejection.

(2) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the grounds for his decision.

(3) A copy of all orders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer on any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders.

By-laws.

Additional
power to make
by-laws in hill
municipalities.

499. (1) In addition to any by-laws that they may make under any other section of this Act, the Commissioners of a hill municipality may, at a meeting, make by-laws—

- (a) enforcing, regulating or prohibiting the cutting or destroying of trees or shrubs and the planting and maintenance of particular kinds of trees or shrubs, and regulating or prohibiting the making of excavations or removal of soil or quarrying; and providing for the alteration, repair and proper maintenance of buildings and compounds, for the closing of roads and by-paths and for the general protection of the surface land on any hillside where such by-laws appear to the Commissioners to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, gravel or stones;
- (b) regulating the rule of the road;
- (c) rendering licenses necessary within the municipality for animals, vehicles and other conveyances let out on hire for a day or part thereof;

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- (d) prescribing the conditions subject to which such licenses may be granted, refused, suspended or withdrawn;
- (e) regulating the charges to be made for the hire of such animals, vehicles and other conveyances;
- (f) preventing the straying of poultry;
- (g) preventing or regulating the grazing or straying of cattle on hillsides or banks; and
- (h) regulating any of the matters referred to in sections 474, 477, 482 and 492.

I of 1871. (2) The word "cattle", as used in clause (g), shall have the same meaning as in the Cattle Trespass Act, 1871.

CHAPTER XXIV.

Penalties.

500. (1) Whoever commits any offence by—

- (a) contravening any provision of any of the sections, sub-sections, clauses of sections or provisos of this Act mentioned in the first column of the following table, or
- (b) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses or provisos,

Certain offences punishable with fine.

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

(2) Whoever, after having been convicted of any offence referred to in clause (a) or clause (b) of sub-section (1), continues to commit such offence shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in this behalf in the fourth column of the said table.

Explanation.—The entries in the second column of the following table headed "Subject" are not intended as definitions of the offences described in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof.

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 62, sub-section (2), clause (c).	Commissioners unlawfully acquiring share or interest or holding office of profit.	Five hundred rupees.	
Section 72, sub-section (2).	Municipal officers and servants unlawfully acquiring share or interest in contract.	Two hundred and fifty rupees.	
Section 127 ..	Requisition for list of the number of persons residing in a holding.	One hundred rupees.	
Section 134 ..	Requisition for returns, rent or annual value and description of holdings.	Twenty rupees ..	Five rupees.
Section 143 ..	Obligation to give notice of re-occupation of unoccupied holding.	Twenty-five rupees ..	Five rupees.
Section 144 ..	Obligation to give notice of transfer of title in land or building.	Twenty-five rupees ..	Five rupees.
¹ Section 144A ..	Obligation to give notice of transfer of title in land or building by inheritance.	Twenty-five rupees ..	Five rupees.
Section 164 ..	Unlawful purchase at a municipal auction.	Five hundred rupees.	
Section 171, sub-section (1).	Obligation to forward statement of carriages and animals liable to taxation.	Twenty rupees.	
Section 172 ..	Obligation to forward statement of carriages and animals liable to taxation.	Twenty rupees.	
Section 175 ..	Keeping or possessing carriage or animal without a license.	Three times the amount payable for license, exclusive of the amount so payable.	
Section 178, sub-section (2).	Failure to attend when summoned.	Fifty rupees.	
² Section 182 ..	Failure to take out a license	Twice the amount payable for license, exclusive of the amount so payable.	

¹These entries were inserted by s. 42 (i) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act X] of 1936).

²These entries were inserted by s. 42 (ii), *ibid*.

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(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 188 ..	(i) Keeping or possessing cart not duly registered.	Twice the amount payable for license, exclusive of the amount so payable.	
	(ii) Failing to affix registration number to cart.	Five rupees.	
Section 197 ..	Unlawfully refusing to leave a municipal ferry boat or to remove goods therefrom.	Ten rupees.	
Section 198 ..	Keeping unauthorised ferry boat.	Fifty rupees	Ten rupees.
Section 204 ..	Refusing to pay or avoiding payment of toll.	Fifty rupees.	
Section 207 ..	Failure to hang up table of tolls.	Fifty rupees	Ten rupees.
Section 211 ..	Demanding or taking unauthorised toll.	Fifty rupees.	
Section 218, sub-section (1).	(i) Prohibition of erection of, or addition to, building or wall within street alignment prescribed under section 217.	Two hundred and fifty rupees	Twenty-five rupees.
	(ii) Requisition to remove building erected or added within street alignment prescribed under section 217.	Fifty rupees	Ten rupees.
Section 218, sub-section (3).	Prohibition of erection of, or addition to, building between street alignment and building-line prescribed under section 217.	Two hundred rupees ..	Twenty rupees.
Section 218, sub-section (4).	Requisition to remove building erected or added to between street alignment and building-line prescribed under section 217.	Fifty rupees	Ten rupees.
Section 224 ..	(i) Prohibition of erection of, or addition to, building or wall within street alignment of street projected under section 223.	Two hundred and fifty rupees	Twenty-five rupees.
	(ii) Requisition to remove building erected or added to on site between street alignment and building-line of a street projected under section 223.	Fifty rupees	Ten rupees.

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 226 ..	Unlawfully making or laying out a private street.	Two hundred and fifty rupees	Twenty-five rupees.
Section 228, sub-section (1).	Requisition on owner of private street or owner or occupier of adjoining land to level, etc., such street.	One hundred rupees ..	Ten rupees.
Section 230, sub-section (2).	Unlawfully interfering with arrangement made for guarding against accident.	Fifty rupees.	
Section 231, sub-section (2).	Unlawfully constructing boardings or fences, etc., or removing the same or failure to construct or to keep the same sufficiently lighted at night.	One hundred rupees ..	Twenty rupees.
Section 232 ..	Unlawfully depositing movable property on, or making excavation in, or enclosing any public street or failure to make suitable provision for passage of the public, to erect sufficient fences and to keep the same sufficiently lighted.	One hundred rupees ..	Twenty rupees
Section 234 ..	Unlawfully using road closed to certain classes of traffic.	One hundred rupees.	
Section 235, sub-section (1).	Putting up verandahs, etc., to project over street without permission.	Two hundred and fifty rupees.	
Section 235, sub-section (4).	Requisition on owner or occupier of building to comply with condition subject to which permission was given to put up verandahs, etc., projecting over street.	One hundred rupees ..	Twenty rupees.
Section 236, sub-section (1).	Constructing platform upon or over any public street or drain without permission.	Two hundred and fifty rupees	Twenty-five rupees.
Section 236, sub-section (2).	Failure to take out a license for platform.	Fifty rupees	Ten rupees.
Section 237 ..	Requisition on owner to remove obstruction to public street or drain caused by fallen building, wall, etc.	Fifty rupees	Ten rupees.

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Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 238, sub-section (1).	Digging or cutting up a public street without permission.	One hundred rupees.	
Section 239 ..	Requisition on owner or occupier to put up and keep in good condition proper troughs and pipes for receiving or carrying off water from building or land.	Fifty rupees	Ten rupees.
Section 240, sub-section (1), clause (b).	Requisition to remove wall, hoarding, etc., over any house-gully or any public street, drain, etc.	Fifty rupees	Ten rupees.
Section 241, sub-section (1).	Requisition on owner or occupier of building to remove or alter verandah, platform or other structure or fixture attached to building.	One hundred rupees ..	Ten rupees.
Section 242 ..	Requisition on owner of land to trim or cut hedges or trees.	Fifty rupees	Ten rupees.
Section 243 ..	Requisition on owner of any pool, ditch, tank, etc., which causes damage.	One hundred rupees ..	Ten rupees.
Section 244, sub-section (2).	Unlawfully destroying, pulling down, etc., name of public street or number of house.	Twenty rupees.	
Section 250 ..	Direction to deposit sewage, etc., in specified places and at specified times.	Ten rupees.	
Section 251, sub-section (2).	Placing rubbish or offensive matter on a public street, except at specified times and in proper receptacles.	Ten rupees.	
Section 252, sub-section (2), clause (a).	Direction to collect and remove rubbish and offensive matter accumulating on business premises or on premises on which building work is going on.	Ten rupees.	
Section 253 ..	Keeping dirt, dung, etc., in or about a house, except in proper receptacle.	Ten rupees.	

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 254 (i), (ii) or (iii).	Throwing any rubbish, offensive matter, etc., upon any street or in any sewer or drain ¹ [improper] use of drain or discharge of water, steam, etc.	Ten rupees.	
Section 255, sub-section (1).	Failure to dispose of dead bodies of animals.	Twenty-five rupees.	
Section 258, sub-section (1).	Provision for privy and urinal for building.	Fifty rupees.	
Section 258, sub-section (3).	Provision for privy, urinal and bathing accommodation for building.	Fifty rupees.	
Section 259, sub-section (1).	Requisition on owner of premises to provide or alter privy or urinal or bathing or washing place for or in premises.	Fifty rupees	Five rupees.
Section 260 ..	Construction, renewal, etc., of house-drain, cess-pool, etc., and appurtenances thereof in contravention of rules.	One hundred rupees	Ten rupees.
Section 261 ..	Construction or keeping of house-drain, service-privy, urinal or cess-pool within fifty feet of tank, etc.	Fifty rupees	Ten rupees.
Section 263 ..	Disobeying any lawful order or requisition to repair, alter, remove, shut off, or provide latrine, etc.	Fifty rupees	Ten rupees.
Section 264, sub-section (1).	Failure to provide house-gully	Fifty rupees	Ten rupees.
Section 266 ..	Failure or refusal to keep latrine, urinal, etc., in proper condition.	Fifty rupees	Ten rupees.
Section 272 ..	Unlawfully connecting house-drain with municipal drain.	One hundred rupees	Ten rupees.
Section 273 ..	Unlawful construction, alteration, etc., of drains leading to municipal sewers, etc.	One hundred rupees	Ten rupees.

¹This word was substituted for the words "in proper" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

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(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 275 ..	Requisition on owner of premises to make house-drain and provide appliances or fittings or to remove house-drain, etc.	Fifty rupees	Five rupees.
Section 276 ..	Requisition on owner of premises to make house-drain communicating with closed cess-pool.	Fifty rupees	Five rupees.
Section 290 ..	Requisition on owner or occupier to lay down separate service-pipes for separate holdings.	One hundred rupees ..	Ten rupees.
Section 298, sub-section (1).	Fraud in respect of meter ..	One hundred rupees.	
Section 299 ..	Injuring meter or fittings thereof.	One hundred rupees.	
Section 301, sub-section (3).	Improper use of water supplied for domestic purposes.	Ten rupees	Five rupees.
Section 303, sub-section (4).	Requisition to alter or add to work, pipe or fitting unsuitable for the purpose.	Fifty rupees	Five rupees.
Section 305 ..	(i) Taking water out of municipal limits, without authorization.	One hundred rupees.	
	(ii) Negligently allowing water to be wasted.	Twenty rupees.	
	(iii) Unlawfully drawing off or diverting water from water-works.	Five hundred rupees ..	Fifty rupees.
Section 307 ..	Commencing work for supply of water to any premises without sending estimate and specification.	One hundred rupees ..	Ten rupees.
Section 315, sub-section (2).	Prohibition of erection of building without permission or so as to deprive another building of proper means of access.	Two hundred rupees ..	Fifty rupees.
Section 320 ..	Sending written notice after completion of erection of a new building.	Fifty rupees.	

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 321, sub-section (2)	Requisition on owner to make specified alterations.	Two hundred and fifty rupees in the case of a masonry building and twenty-five rupees in the case of a hut.	Twenty-five rupees in the case of masonry build- ing and five rupees in the case of a hut
Section 323, sub-section (1).	Constructing the roofs or ex- ternal wall of a house with inflammable materials without permission.	Twenty-five rupees	Five rupees.
Section 323, sub-section (2).	Requisition on owner of a building to remove roof or external wall of inflammable materials.	Fifty rupees	Five rupees.
Section 333, sub-section (1).	Requisition to discontinue the erection of a new build- ing or other unlawful work.	Two hundred rupees	Twenty-five rupees.
Section 337	Requisition on owners or occupiers to carry out in <i>bustee</i> hut-improvements specified in the schedule annexed to the report.	Two hundred rupees	Twenty-five rupees.
Section 341, sub-section (2).	Failure to keep open private street in <i>bustee</i> for scaveng- ing or other purposes and for use of tenants.	Fifty rupees	Ten rupees.
Section 342	Failure to keep open bathing and privy accommodation in <i>bustee</i> for use of tenants.	Fifty rupees	Ten rupees.
Section 343, sub-section (2).	Requisition on owner to main- tain in proper order street, drains, etc., in <i>bustee</i> accord- ing to standard plan.	Two hundred rupees	Twenty rupees.
Section 344, sub-section (6).	Requisition on owner to carry out improvements before re-erecting huts.	One hundred rupees	Ten rupees.
Section 345, sub-section (4).	Erection of hut or portion of hut within alignment pres- cribed for private streets in <i>bustee</i> or other area.	Fifty rupees.	
Section 345, sub-section (5).	Failure to keep open private street in <i>bustee</i> for scaveng- ing or other purposes and for use of tenants.	Fifty rupees	Ten rupees.
Section 346, sub-section (1).	Requisition on owners or occu- piers to remove huts.	Fifty rupees	Ten rupees.

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(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisions.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 347 ..	Requisition on person erecting masonry building in <i>buzee</i> to leave space of [fifteen] feet from centre line of street.	One hundred rupees ..	Twenty rupees.
Section 348 ..	Direction to set apart tanks, wells, etc., for drinking, culinary, bathing and washing purposes.	Fifty rupees ..	Five rupees.
Section 349 ..	Requisition to cleanse or protect tank, well, etc., used for drinking or culinary purposes.	Fifty rupees ..	Five rupees.
Section 350 ..	Prohibition of use of polluted water for drinking or culinary purposes.	Fifty rupees.	
Section 353 ..	Requisition to take measures to prevent the use of polluted water.	Fifty rupees ..	Five rupees.
Section 356, sub-section (1).	Requisition to cleanse, fill up or de-water well, pool, ditch, tank, pond or marshy ground or to drain off or remove waste or stagnant water.	One hundred rupees ..	Ten rupees.
Section 357, sub-section (1).	Making excavation or digging cess-pool, tank, pond, well or pit.	One hundred rupees.	
Section 357, sub-section (2).	Requisition to fill up excavation, cess-pool, tank, etc., unlawfully made.	Fifty rupees ..	Five rupees.
Section 359, sub-section (1).	Requisition to secure or protect dangerous well, tank or excavation.	One hundred rupees ..	Ten rupees.
Section 360 ..	Prohibition of cultivation of crops, use of manure or method of irrigation injurious to health and the growth of water-hyacinth and noxious weeds.	Fifty rupees ..	Five rupees.
Section 362 ..	Requisition on owner or occupier to lime-wash or otherwise cleanse building.	Twenty-five rupees ..	Five rupees.

¹This word was substituted for the word "twenty" by s. 10 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 363 ..	Requisition on owner or occupier to clear noxious vegetation and to improve bad drainage.	One hundred rupees ..	Ten rupees.
Section 364, sub-section (1).	Requisition on owner or occupier to take down, repair or secure wall or building or fixture in a ruinous state, etc.	Two hundred and fifty rupees	One hundred rupees.
Section 364, sub-section (2).	Requisition on inmate to vacate building in ruinous state, etc.	One hundred rupees ..	Fifty rupees.
Section 365, sub-section (1).	Requisition on owners or occupiers to execute works or take measures with respect to buildings or block of buildings in order to prevent risk of disease.	Five hundred rupees in the case of a masonry building or block of masonry buildings and one hundred rupees in the case of a hut or block of huts.	One hundred rupees in the case of a masonry building or block of masonry buildings and twenty rupees in the case of a hut or block of huts.
Section 366, sub-section (3).	Using building declared unfit for human habitation.	Two hundred and fifty rupees	Fifty rupees.
Section 367, sub-section (2).	Requisition on owner or occupier to demolish or execute work on building declared unfit for human habitation.	Two hundred and fifty rupees	Fifty rupees.
Section 368, sub-section (1).	Requisition on owner to abate overcrowding in building or room.	Twenty-five rupees ..	Five rupees.
Section 368, sub-section (4).	Requisition on inmate to vacate overcrowded building or room.	Twenty-five rupees ..	Five rupees.
Section 370, sub-section (1).	Using any place for any of the purposes specified in section 370 without license.	One hundred rupees ..	Ten rupees.
Section 370, sub-section (3).	Breach of condition of license under section 370.	One hundred rupees ..	Ten rupees.
Section 372, sub-section (1).	Keeping horses and cattle for trade or business without license.	Fifty rupees ..	Five rupees.
Section 372, sub-section (2).	Breach of condition of license issued under section 372.	Fifty rupees ..	Five rupees.
Section 373, sub-section (1).	Keeping horses and cattle except in public stables.	Fifty rupees ..	Five rupees.

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(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed
1	2	3	4
Section 373, sub-section (4).	Breach of condition of license issued under section 373.	Fifty rupees	Five rupees.
Section 374, sub-section (1).	Keeping pigs, sheep, etc., without license.	Fifty rupees	Five rupees.
Section 374, sub-section (2).	Breach of condition of license issued under section 374.	Fifty rupees	Five rupees.
Section 377 ..	Information of existence of infectious disease in any building.	Fifty rupees.	
Section 378, sub-section (3).	Removal to hospital of patient suffering from infectious or contagious disease.	One hundred rupees.	
Section 379, sub-section (1).	Requisition on occupier to vacate building or part thereof to admit of dis- infection.	Fifty rupees	Ten rupees.
Section 381 ..	Letting infected building ..	Five hundred rupees.	
Section 382, sub-section (2), clause (b).	Direction to disinfect cloth- ing, bedding or other articles likely to retain infection.	Fifty rupees	Five rupees.
Section 383 ..	Washing infected articles at unauthorised places.	Fifty rupees.	
Section 384 ..	Infected person making, sell- ing or touching any article of food or medicine or drug or taking part in business of washing clothes or sell- ing clothes.	Fifty rupees.	
Section 385, sub-section (1).	Giving, lending, etc., infected article.	Fifty rupees.	
Section 386, sub-section (1).	Infected person exposing him- self in a public place or allowing himself to be car- ried in public conveyance, etc., and person in charge of an infected person, dead body or infected article permitting the same to be so exposed or carried, as the case may be.	Fifty rupees.	
Section 387, sub-section (1).	Failure to take public convey- ance to appointed place for disinfection.	One hundred rupees.	
Section 387, sub-section (4).	Using infected public convey- ance.	One hundred rupees.	

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 388, sub-section (2).	Carrying infected person, dead bodies, etc., in other than special conveyance without permission.	One hundred rupees.	
Section 390, sub-section (1).	Direction to close or prohibition against attending market, <i>sarai</i> , etc., to prevent spread of infection.	Two hundred and fifty rupees	Twenty-five rupees.
Section 391, sub-section (1).	Direction to close school or to exclude scholars from attendance to prevent spread of infection.	Two hundred and fifty rupees	Twenty-five rupees.
Section 398, sub-section (1).	Direction to regulate operations in case of fire.	One hundred rupees.	
Section 400 ..	Prohibition of stacking or collecting hay, wood, etc., within certain limits.	One hundred rupees ..	Ten rupees.
Section 404, sub-section (1).	Selling in municipal market without permission.	Twenty-five rupees.	
Section 405, sub-section (1).	(i) Establishing new private market without sanction.	One thousand rupees.	
	(ii) Keeping open any private market or permitting any place to be used as a private market.	Two hundred rupees ..	Twenty-five rupees.
Section 406 ..	Using as market a place which Magistrate has directed to be closed.	One hundred rupees ..	Twenty rupees.
Section 408 ..	Slaughtering animal at place other than a municipal or licensed slaughter-house.	Fifty rupees.	
Section 409 ..	Requisition to pave, drain, etc., or otherwise improve private market.	Fifty rupees	Ten rupees.
Section 410, sub-sections (1) and (2).	Requisition on owner or occupier of private market to lay out, alter, etc., approaches, roads, etc., and to provide conveniences for, and maintain, the same.	Fifty rupees	Ten rupees.
Section 411, sub-section (2).	Requisition on tenant or agent to remove himself from market or slaughter house.	Fifty rupees	Ten rupees.

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(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
¹ Section 414A ..	Holding a fair or <i>mela</i> without or otherwise than in conformity with the terms of a license.	Two hundred rupees ..	Twenty-five rupees.
Section 414B ..	Prohibition of prostitution ..	Five hundred rupees.	
Section 415, sub-section (1).	Using false or incorrect weight or measure or instrument for weighing.	Fifty rupees ..	Five rupees.
Section 415, sub-section (3).	Failure to produce for inspection instruments for weighing, weights and measures.	Fifty rupees.	
Section 418, sub-section (1).	Carrying on trade of butcher or selling animals, meat or fish outside market without license.	One hundred rupees ..	Ten rupees.
Section 420, sub-section (1).	Carrying on trade of dairyman, milkman, baker, etc., without license.	One hundred rupees ..	Ten rupees.
Section 421, sub-section (1).	Sale, etc., of diseased living things or unwholesome article intended for human food.	Two hundred and fifty rupees for a first offence and one thousand rupees for any subsequent offence.	
Section 422 ..	Prohibition of keeping bread-stuffs, etc., for sale except in properly covered receptacles.	Fifty rupees.	
Section 423 ..	Selling drugs recognised in British Pharmacopœia in any place without license.	One hundred rupees ..	Twenty rupees.
Section 424, sub-section (1).	Compounding, mixing, etc., drug in a licensed shop or place without holding a certificate.	Fifty rupees.	
Section 424, sub-section (2).	Employing unauthorized person to compound, etc., drugs in licensed shop or place.	Two hundred rupees.	
Section 428, sub-section (2).	Removing, interfering or tampering with living thing, food, drug, etc., seized and left in custody.	Two hundred rupees.	

¹These entries were inserted by s. 42(iii) of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 435 ..	Registration of place used as a burial or burning ground.	One hundred rupees.	
Section 436 ..	Formation or using place as burial or burning ground without permission.	Five hundred rupees.	
Section 438, sub-section (1).	Burning or burying corpse except in a place provided for the purpose without permission.	One hundred rupees.	
Section 438, sub-section (2).	Exhuming corpse in certain cases without permission.	Five hundred rupees.	
Section 439, sub-section (1).	Direction to close burial or burning ground injurious to health or offensive to neighbourhood.	Five hundred rupees ..	Fifty rupees.
Section 441, sub-section (2).	Disposal of dead bodies of persons dying from infectious disease.	One hundred rupees.	
Section 443, sub-section (1).	Selling fuel or other article for cremation without license.	Fifty rupees.	
Section 443, sub-section (2).	Selling articles for cremation at a higher rate than the rate fixed.	Fifty rupees.	
Section 447 ..	Notice of birth or death by medical officer in charge of hospital.	Fifty rupees.	
Section 453, sub-section (2).	Direction for removal of nuisance.	Five hundred rupees ..	Fifty rupees.
Section 461 ..	Failure to surrender license ..	One hundred rupees ..	Ten rupees.
Section 467 ..	Production of license for inspection.	Fifty rupees ..	Ten rupees.
Section 474, sub-section (5).	Construction of private road without permission, etc.	Five hundred rupees ..	One hundred rupees.
Section 475 ..	Requisition to re construct, etc., a private road or bridge.	Five hundred rupees ..	One hundred rupees.
Section 476 ..	Requisition to provide and maintain or to enlarge waterway.	Two hundred and fifty rupees	Fifty rupees.
Section 477 ..	Construction, etc., of private road or bridge.	Two hundred and fifty rupees.	

of 1932.]

(Chapter XXIV.—Penalties.—Sec. 500.)

Sections, sub-sections, clauses or provisos.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 478 ..	Requisition to close a private road.	Two hundred and fifty rupees	Fifty rupees.
Section 479 ..	Requisition on owner to remove obstruction to public road or drain caused by fallen building, etc.	Fifty rupees ..	Ten rupees.
Section 480, clause (b)	Requisition to remove debris falling upon or into a private road or drain.	Fifty rupees ..	Ten rupees.
Section 482, sub-section (4).	Construction to private drain without permission, etc.	Two hundred and fifty rupees	Fifty rupees.
Section 483, sub-section (1).	Requisition to re-construct, etc., private drain.	Two hundred and fifty rupees	Fifty rupees.
Section 483, sub-section (2).	Requisition to provide, repair, etc., roof gutters, etc.	One hundred rupees ..	Ten rupees.
Section 484 ..	Requisition to provide a drain.	Two hundred and fifty rupees	Fifty rupees.
Section 486 ..	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immovable property.	Five hundred rupees ..	One hundred rupees.
Section 487 ..	Requisition to take down or secure buildings, etc., where hillside or bank threatens their safety.	Five hundred rupees ..	One hundred rupees.
Section 488 ..	Requisition to construct revetment, etc.	Five hundred rupees ..	One hundred rupees.
Section 492 ..	Revetment, turfing and sloping.	Two hundred and fifty rupees	Fifty rupees.
Section 493, sub-section (1).	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building and fifty rupees in the case of a hut.	Fifty rupees in the case of a masonry or framed building and ten rupees in the case of a hut.
Section 493, sub-section (2).	Prohibition of occupation of insanitary building.	Fifty rupees ..	Ten rupees.
Section 513 ..	Obstructing Commissioners, Chairman, Vice-Chairman, etc., in making any entry, search, etc., or carrying on work under this Act.	Two hundred rupees for a first offence and five hundred rupees for a subsequent offence.	

(Chapter XXIV.—Penalties.—Secs. 501—504.)

Fine for unlawfully commencing, carrying on or completing building work.

501. If the erection of any new building—

- (a) is commenced without obtaining the written permission of the Commissioners, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or
- (c) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

if any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building is commenced, carried on or completed in breach of section 326,

the owner of the building shall be liable to fine, which may extend in the case of a masonry building to five hundred rupees and in the case of a hut to fifty rupees, and to further fine, which may extend in the case of a masonry building to one hundred rupees and in the case of a hut to ten rupees for each day during which the offence is continued after the first day.

Penalty for obstructing contractor or removing mark.

502. Any person who, in contravention of section 541, obstructs or molests any person with whom the Commissioners have entered into a contract, or, in contravention of section 542, removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

Power to impose penalties for breach of rules or by-laws.

503. In making any rule or by-law the Commissioners may, with the sanction of the '[Provincial Government]', or in the case of any rule, model rule or by-law the '[Provincial Government]' may direct that the breach thereof shall be punishable with a fine which may extend to fifty rupees and, when the breach is a continuing one, with a further fine not exceeding five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Penalty on officers, etc., taking unauthorized fees.

504. If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) shall accept or obtain or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for

Act XLV of 1860.

¹See foot-note 3 on p. 1, *u. l.*

of 1932.]

(Chapter XXV.—*Procedure.*—Secs. 505, 506.)

showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Commissioners or with any public servant or ¹[with any Government] in the discharge of his official duties, he shall be punished with imprisonment, for a term which may extend to three years, or with a fine which may extend to five thousand rupees, or with both.

CHAPTER XXV.

Procedure.

Rules and by-laws.

505. (1) The power of the ²[Provincial Government] to make rules under this Act is subject to the condition of the rules being made after previous publication.

Previous publication of rules made by Government.

(2) Any rule made by the ²[Provincial Government] may be general for all municipalities or for all municipalities not expressly excepted from its operation or may be special for the whole or any part of any one or more than one municipality as the ²[Provincial Government] may direct.

506. (1) Rules and by-laws made by the Commissioners under this Act shall not take effect unless and until they have been submitted to, and confirmed by the ²[Provincial Government].

Confirmation and publication of rules and by-laws made by the Commissioners.

(2) Such rules and by-laws shall not be confirmed—

(i) unless one month at least before the making of the application notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such rules or by-laws relate, or if there be no such newspapers, then in such manner as the Commissioners may direct, and

(ii) unless for one month at least before such application a copy of the proposed rules or by-laws has been kept at the office of the Commissioners, and has been open during office hours thereat to the inspection of the inhabitants of the municipality to which such rules or by-laws relate, without fee.

¹These words were substituted for the words "with the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²See foot-note 3 on p. 1, *ante*.

[Ben. Act XV

(Chapter XXV.—Procedure.—Secs. 507—510.)

(3) The Commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed rules or by-laws, on payment of four annas for every hundred words contained in the copy.

(4) The ¹[Provincial Government] may rescind any rule or by-law which it has confirmed, and thereupon the rule or by-law shall cease to have effect.

Publication of rules, by-laws, orders and notices.

Publication of
rules, by-laws,
orders and
notices.

507. Every rule, by-law, order, public notice or other document directed to be published under this Act shall be written in, or translated into, Bengali, and deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other public places as the Commissioners may direct;

and a public proclamation shall be made throughout the municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Commissioners.

Signature and service of notices, etc.

Signature of
notices, etc.,
may be
stamped.

508. (1) Every license, written permission, notice, bill, summons or other document which is required by this Act or by any rule or by-law made thereunder to bear the signature of the Chairman, Vice-Chairman or any other municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman, Vice-Chairman or such municipal officer stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund.

Notices, etc., by
whom to be
served or
issued.

509. All notices, bills, summonses and other documents required by this Act or by any rule or by-law made thereunder to be served upon, or issued to, any person, shall be so served or issued by municipal officers or servants or by other persons authorized by the Commissioners at a meeting in this behalf.

Service
how to be
effected on
owner or
occupier of
premises.

510. When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person as owner or occupier of any land or building, it shall not be necessary to name the owner or occupier in the document and the service or issue thereof shall be effected—

(a) by giving or tendering such document to the owner or occupier:

¹See foot-note 3 on p. 1, ante.

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(Chapter XXV.—Procedure.—Secs.—511, 512.)

Provided that if there be more than one owner or occupier, and it is not in the opinion of the Commissioners practicable to serve the document on every one of them the Commissioners may serve the document on any one or more of them as they may think fit; or

- (b) if the owner or occupier is not found, by giving or tendering such document or by sending it by post to any adult male member of the family, or to a servant in the employ, of the owner or occupier or of any one of the owners or occupiers; and
- (c) both in the cases mentioned in clauses (a) and (b) by affixing such notice, bill, summons, or other document on some conspicuous part of the land or building (if any) or other thing to which the document relates.

511. When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person otherwise than as owner or occupier of any land or building, such service or issue shall be effected—

Service how to be effected otherwise than on owner or occupier of premises.

- (a) by giving or tendering such document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode or business in the municipality or by giving or tendering the same or by sending it by post to any adult male member of his family or adult male servant in his employ; or
- (c) if such person does not reside in the municipality and his address elsewhere is known to the Commissioners, by forwarding such document to him by post in a cover bearing the said address; or
- (d) if none of the means referred to in clauses (a), (b) or (c) be available, by affixing such notice, bill, summons or other document on some conspicuous part of the land or building (if any) or other thing to which the document relates.

Powers of entry and inspection.

512. The Chairman, Vice-Chairman, Executive Officer, Health Officer, Engineer or Sanitary Inspector, or any other person authorized by the Commissioners in this behalf, may enter into or on any building or land with or without assistants or workmen, in order to make any inquiry, inspection, test, examination, survey,

Power of entry to inspect, survey or execute work.

(Chapter XXV.—Procedure.—Secs. 513, 514.)

measurement or valuation or for the purpose of lawfully placing or removing pipes or meters, or to execute any other work which is authorized by the provisions of this Act or of any rule, by-law or order made thereunder, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions, to make or execute:

Provided that—

- (a) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is otherwise expressly provided as aforesaid, no dwelling-house, and no part of a public building used as a dwelling-place, shall be so entered without the consent of the occupier thereof, unless the said occupier has received at least twelve hours' previous notice of the intention to make such entry;
- (c) reasonable notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to remove to some part of the premises where their privacy may be preserved;
- (d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

Prohibition of obstructing entry.

513. No person shall, in any way, obstruct the Commissioners, Chairman, Vice-Chairman, Executive Officer, Health Officer, Sanitary Inspector or any municipal officer or servant, or any other person authorized by the Commissioners at a meeting or otherwise, in making any entry, inspection or search under this Act, or any person accompanying them at their request or acting under their orders for the purpose of such entry or acting under their orders in carrying out any work, under the provisions of this Act, or under any rule or by-law made thereunder for the carrying out of such work.

Enforcement of requisitions.

Procedure when owners or occupiers required to execute works by Commissioners.

514. (1) Whenever it is provided in this Act or in any rule or by-law made thereunder that the Commissioners or the Commissioners at a meeting may require the owners or the occupiers, or the owners and occupiers of any land or building, to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served on every owner or occupier who is required to execute such

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(Chapter XXI.—Procedure.—Secs. 515, 516.)

work or to do such thing: but, if there is any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers, of any land or building, to execute such work or to do such thing within a specified time; and in such notification it shall not be necessary to name the owners and occupiers. If no time is specified in this Act or in any rule or by-law made thereunder for the execution of such work or the doing of such thing the notice shall prescribe a reasonable period for carrying the requisition into effect, and shall be served as provided in this sub-section.

(2) Every requisition provided in sub-section (1), other than a requisition under section 240 or section 241, or under the provisions of Chapter XXI shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in section 515, the Commissioners will enter upon the land or building and cause the required work to be executed, or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

515. A person who is required by a requisition as provided in section 514, other than a requisition under section 240 or section 241, or under the provisions of Chapter XXI to execute any work or to do anything may, instead of executing the work or doing the thing required, prefer an objection in writing to the Commissioners against such requisition within five days of the service of the notice or posting up of the notification containing the requisition; or if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Objection by persons required to execute any work.

Except as provided in section 516, such objection shall be heard and disposed of by the Chairman, Vice-Chairman or Executive Officer.

516. If the objection alleges that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the Commissioners at a meeting; unless the Chairman, Vice-Chairman or Executive Officer certifies that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the Chairman, Vice-Chairman or Executive Officer:

Procedure if person objecting alleges that work will cost more than three hundred rupees.

(Chapter XXV.-- Procedure.—Secs. 517—519.)

Provided that in any case in which the Chairman, Vice-Chairman or Executive Officer has certified his opinion as aforesaid, and the objection has in consequence thereof been heard and disposed of by the Chairman, Vice-Chairman or Executive Officer the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Commissioners as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required and in respect of paying the expenses thereof; and the Commissioners themselves shall execute such work or do such thing, and shall exercise all powers necessary therefor.

Orders after
hearing
objection.

517. The Chairman, Vice-Chairman, Executive Officer or the Commissioners at a meeting, as the case may be, shall after hearing the objection and making any inquiry which may be deemed necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred; and, if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

Order to be
explained
orally.

518. If the person making such objection is present at the office of the Commissioners, the said order shall be explained to him orally; and if such order cannot be so explained, notice of such order shall be served as provided in section 510 or section 511, as the case may be, on the person making the objection: and such explanation of, or service of, the notice of the said order shall be deemed to be a requisition duly made under this Act to execute the work or do the thing required.

Power of
Commissioners
on failure of
persons to
execute work.

519. (1) If the person required to execute the work or to do the thing fails within the time specified in any requisition provided in sub-section (1) of section 514 other than a requisition under section 240 or section 241, or a requisition under Chapter XXI to begin to execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the Commissioners until it is completed, the Commissioners or any person authorized by them in this behalf, may, after giving forty-eight hours' notice of their intention by a notification to be posted up on or near the spot, enter upon the land or building and perform all necessary

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(Chapter XXV.—Procedure.—Secs. 520—523.)

acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid to the Commissioners by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

(2) The Commissioners may take any measure, execute any work or cause anything to be done under this section or under the provisions of Chapter XXI, whether or not the person who has failed to comply with the requisition is liable to punishment, or has been prosecuted or sentenced to any punishment, under this Act or under any rule or by-laws made thereunder for such failure.

520. Whenever any expenses incurred by the Commissioners are to be paid by the owners or by the occupiers of any land or building as provided in section 519, the Commissioners may, if there be more than one owner or more than one occupier, as the case may be, apportion the said expenses among such of the owners or among such of the occupiers as are known in such manner as to the Commissioners may seem fit.

Apportionment
of expenses
among owners.

521. Whenever any expenses incurred by the Commissioners are to be paid by the owners and occupiers of any land or building as provided in section 519, the Commissioners may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the Commissioners may seem fit.

Apportionment
among owners
and occupiers.

522. Whenever any works or any alterations and improvements of which the Commissioners are authorized by this Act to require the execution are executed by the occupier on the requisition of the Commissioners, or are executed by the Commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any court of competent jurisdiction.

Recovery by
occupier of cost
of works
executed at
his expense.

523. Whenever any works referred to in clause (c) of sub-section (1) of section 259 are executed by the Commissioners, the Commissioners at a meeting may order that the costs thereof shall be recovered by instalments from the person liable to pay the same, or if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the cost or any portion thereof to be paid out of the Municipal Fund.

Recovery of
costs by
instalments
or its remission
in cases of
poverty.

(Chapter XXV.—Procedure.—Secs. 524—527.)

Recovery of costs and expenses.

Recovery of
moneys due
to the
Commissioners.

524. All costs, expenses, rents, tolls, fees or other moneys due under this Act to the Commissioners of any municipality may be recovered in the manner provided in sections 155 to 162 (both inclusive).

Power to sell
unclaimed
holdings for
money due.

525. (1) If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding is unknown or the ownership thereof is disputed, the Commissioners may publish twice, at an interval of three months, a notification of sale of such holding and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit the full amount of the purchase-money.

(2) After deducting the amount due to the Commissioners as aforesaid, the surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or in a court of competent jurisdiction.

(3) Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such property.

Sale of
materials.

526. (1) The materials of anything which shall have been pulled down or removed by the Commissioners under the provisions of sections 237, 364, 366, 454, or sub-section (2) of section 514, may be sold by the Commissioners, and the proceeds of such sale may be applied, so far as the same will extend to the payment of the expenses incurred.

(2) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction.

Power to enter
upon possession
of houses
repaired.

527. If the Commissioners have under the provisions of this Act caused any repairs to be made to any building or other structure, and if such building or other structure be unoccupied, the Commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

of 1932.]

(Chapter XXV.—Procedure.—Secs. 528—529A.)

528. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the Commissioners shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Damage to municipal property how made good.

529. (1) Whenever any person, by reason of his—

Relief to agents and trustees.

- (a) receiving the rent of a immovable property as a receiver, agent or trustee, or
- (b) being as a receiver, agent or trustee the person who would receive the rent if the property were let to a tenant,

would, under this Act or under any rule or by-law made thereunder, be bound to discharge any obligation imposed thereby on the owner of the property and for the discharge of which money is required, and such person has not in his hands funds belonging or payable to the owner sufficient for the purpose, he shall, within a reasonable time from the service upon him of any notice from the Commissioners in this behalf requiring him to discharge the said obligation, be bound to apply to a court of competent jurisdiction for leave to raise the necessary funds or for such other directions in relation thereto as the circumstances of the case may require.

(2) Any receiver, agent or trustee who fails to apply to the court under sub-section (1) shall be deemed to be personally liable to discharge the said obligation.

Appeals.

529A. (1) Any person aggrieved by any entry in or omission from the final electoral roll published under section 21 may, within fifteen days from the date of publication of such roll, appeal to the District Magistrate and if the District Magistrate on such appeal directs any modification or addition to be made in such roll, the roll shall be amended accordingly and the amendment so made shall be published in the same manner as the final roll.

Appeals regarding electoral roll.

(2) No entry in or omission from a final electoral roll published under section 21 shall be liable to be called in question otherwise than by such appeal.

¹Section 529A was inserted by s. 43 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter XXV.—Procedure.—Secs. 530—532.)

Appeals from
certain orders of
the Commis-
sioners.

530. (1) Any person aggrieved by any prohibition, notice or order, made by the Commissioners under the powers conferred upon them by sub-section (3) of section 140, section 176, sub-section (2) of section 218, sub-section (1) of section 219, sub-section (1) of section 228, clause (b) of sub-section (1) of section 240, sub-section (1) of section 241, clause (b) of sub-section (2) of section 252, clauses (ii) and (iii) of section 254, sub-section (1) of section 258, section 259, section 261, section 263, sub-section (1) of section 264, section 309, sub-section (2) of section 341, section 343, section 348, section 349, section 356, section 357, sub-section (1) of section 364, section 368, section 372, sub-section (2) of section 410, section 411, section 418, section 420, section 423, section 520 and section 521 may, within thirty days, from the date of such prohibition, notice or order, appeal to the Commissioners, and every such appeal shall be heard and determined by not less than three Commissioners, who shall be appointed in that behalf by the Commissioners at a meeting, and no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal:

Provided that the prohibition, notice or order shall not be modified or set aside or confirmed until the appellant and the Commissioners have had reasonable opportunity of being heard.

(2) The appellate authority may, for sufficient cause, extend the period allowed by sub-section (1) of this section for appeal.

(3) Except on appeals from decisions or orders under sub-section (3) of section 140, section 372, section 418, section 420, section 423, section 520 and section 521, the order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final.

Appeals from
orders refusing
license under
this Act.

531. Any person aggrieved by an order refusing a license required under this Act may, notwithstanding anything contained elsewhere in this Act, within thirty days, appeal to the ¹[Provincial Government] whose decision shall be final and shall not be questioned in any court.

Prosecutions.

Power of Com-
missioners to
direct prosecu-
tion for public
nuisance, etc.

532. The Commissioners may direct any prosecution for any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this Act or rules or by-laws made thereunder and for the

¹See foot-note 3 on p. 1, ante.

of 1932.]

(Chapter XXV.—Procedure.—Secs. 533—535.)

punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

533. No prosecution for an offence under this Act or any rule or by-law made in pursuance thereof shall be instituted without the order or consent of the Commissioners, and no such prosecution shall be instituted except within six months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within six months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman:

Sanction and limitation for prosecution under this Act.

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

534. (1) When any person, in the presence of a police-officer commits, or is accused of committing, any offence, under this Act or any rule or by-law made in pursuance thereof and refuses, on demand of a police-officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Police-officer to arrest persons refusing to give name and residence.

(2) Upon the recommendation of the Commissioners any servant of the Commissioners in receipt of a salary of not less than twenty-five rupees *per mensem*, when empowered in that behalf by a general or special order of the District Magistrate, may exercise the powers of a police-officer under this section.

Suits.

535. (1) No suit or other legal proceeding shall be brought against the Commissioners of any municipality or any of their agents, officers or servants, or any person acting under their direction, for any act purporting to be done under this Act or any rule or by-law made thereunder until the expiration of one month next after notice in writing has been delivered or left at the office of such Commissioners and also (if the suit or proceeding is intended to be brought against any officer or servant of the said Commissioners or any person acting under their direction) at the place of abode of the person against whom such suit or proceeding is intended to be brought,

Notice of suits against Commissioners.

(Chapter XXV.—Procedure.—Chapter XXVI.—Savings.—Secs. 536, 537.)

stating the cause of action and the name and place of abode of the person who intends to bring the suit or proceeding;

and unless such notice be proved, the court shall find for the defendant.

(2) Every such suit or proceeding shall be commenced within six months next after the accrual of the cause of action, and not afterwards.

(3) When the suit or proceeding is for damages, tender of amends, if any, made before the suit or proceeding is brought may, in lieu of or in addition to any other plea, be pleaded. If the suit or proceeding was commenced after the tender or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, the defendant shall be entitled to full costs of the suit or proceeding after the tender or payment.

Contest of
liability in
civil courts.

536. (7) Any owner or occupier of land or of a building may contest his liability to pay any expenses or fees under sections 519 to 521 or may contest the amount which he has been called upon to pay in a civil court of competent jurisdiction:

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount, in the manner provided by section 524.

(2) Where any damages or compensation other than compensation payable under section 98 are by this Act directed to be paid by the Commissioners the amount, and if necessary, the apportionment of the same, shall, in case of dispute, except as otherwise expressly provided in this Act, be ascertained and determined by a civil court of competent jurisdiction.

CHAPTER XXVI.**Savings.**

Savings.

537. No assessment list or other list, notice, bill or other such document specifying, or purporting to specify, with reference to any tax, rate, toll, charge, rent or fee, any person, property, thing or circumstance shall be invalid by reason only of a mistake in the name, residence, place of business or occupation of the person or in the description of the property, thing or circumstance, or by reason of any mere clerical error or defect of form; and it shall be sufficient that the person, property, thing or circumstance is described sufficiently for the purpose

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(Chapter XXVI.—Savings.—Secs. 538—542.)

of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

538. No distress or sale made under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of distress, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them in any court of competent jurisdiction, subject to the provisions of section 535.

Distress or sale not unlawful for want of form.

539. Whenever any right is conferred or duty imposed by or under this Act, or by any rule or by-law made thereunder on the owner or occupier of any premises, and in consequence of there being gradations of owners or occupiers, doubt arises as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Commissioners may, after due inquiry, determine from time to time which of such owners or occupiers shall be deemed to be so entitled or bound.

Who to be deemed owner or occupier where there are gradations of owners or occupiers.

540. Every Commissioner, every municipal officer and servant, every person employed for the collection of any municipal rate, tax, or fee and every person authorised by the Chairman or the Commissioners at a meeting or otherwise to do any act under this Act or any rule or by-law made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code; and in the definition of legal remuneration in section 161 of that Code, the word Government shall, for the purposes of this section, be deemed to include a body of Municipal Commissioners.

Commissioners, municipal officers, etc., to be deemed public servants.

Act XLV of 1860.

541. No person shall obstruct or molest any person (not being a person referred to in section 540) with whom the Commissioners have entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue, or in consequence of this Act or any rule or by-law made thereunder.

Prohibition of obstruction of municipal contractors.

542. No person shall without the permission of the Commissioners remove any boundary mark set up under the provisions of this Act or any mark set up for the purpose of indicating any level, measurement or direction necessary to the execution of works authorised by this Act or by any rule or by-law made thereunder.

Prohibition of removal of mark.

[Ben. Act XV

(Chapter XXVI.—Savings.—Chapter XXVII.—
Delegation of powers and control.—Secs. 543—545.)

*Chaukidari
chakran lands.*

543. Notwithstanding anything contained in section 3 of the Village Chaukidari Act, 1870, the provisions of Part II of the said Act, relating to *chaukidari chakran* lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the *panchayat* of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the *panchayat* of a village or any member thereof is authorised to exercise under the said Part shall be exercised by the Commissioners of such municipality, and the proceeds of the assessment on such lands made under the said Part shall be paid into the Municipal Fund; and shall be available for the purposes of such fund.

Ben. Act .
VI of 1870

CHAPTER XXVII.

Delegation of powers and control.

Delegation.

Delegation of
powers by the
Provincial
Government.

544. The ¹[Provincial Government] may, with regard to municipalities generally or to any municipality or class of municipalities and subject to such conditions or restrictions as it may deem fit to impose, by notification delegate to the Commissioner of the Division any of the powers vested in the ¹[Provincial Government] by this Act, except any power to make rules and the powers conferred by sections 6, 8, 13, 15, 17, 67, 135, second proviso, 285, 548, 549, 550, 552 and 553.

Control.

Supervision by
Commissioner,
District
Magistrate, etc.

545. The Commissioner of the Division or the District Magistrate or the Magistrate in charge of a sub-division when he is not a member of the municipality may, within the limits of his division or district or sub-division, as the case may be,—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by the Commissioners or any work in progress under the direction of the Commissioners or of a joint committee;

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

*(Chapter XXVII.—Delegation of powers and control.—
Secs. 546—548.)*

- (b) by order in writing call for and inspect a book or document in the possession or under the control of the Commissioners or of such committee;
- (c) by order in writing require ²[the Commissioners or such committee] to furnish such statements, accounts, reports or copies of documents, relating to the proceedings or duties of the Commissioners or the committee, as he thinks fit to call for; and
- (d) record in writing for the consideration of the Commissioners or of such committee, any observations he thinks proper in regard to the proceedings or duties of the Commissioners or the committee.

546. A work, or institution, constructed or maintained, in whole or part, at the expense of the Commissioners and all registers, books, accounts or other documents relating thereto shall, at all times, be open to inspection by such officers as the ¹[Provincial Government] may appoint in this behalf.

Inspection of municipal works and institutions by Government officers.

547. The Chief Engineer, Public Health Department, the Director of Public Health or Deputy or Assistant Director of Public Health, the Civil Surgeon of the district, the Executive Engineer, the Inspector of Schools, and any other officer specially authorised by the ¹[Provincial Government] in this behalf shall be entitled to attend a meeting of the Commissioners to address the Commissioners on any matter affecting their respective departments.

Right of certain officers to attend and speak at meetings.

548. (1) The ¹[Provincial Government] may by order in writing annul any proceeding which it considers not to be in conformity with law and with the rules in force thereunder and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

Power to suspend action under Act.

(2) The Commissioner of the Division or the District Magistrate may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the Commissioners, or prohibit the doing within those limits of any act which is about to be done, or is being done, in

¹See foot-note 3 on p. 1, *ante*.

²These words were substituted for the words "the Commissioners or such committee" by s. 11 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

(Chapter XXVII.—*Delegation of powers and control.*—
Secs. 549, 550.)

pursuance of, or under cover of, this Act or any rule or by-law made thereunder, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

(3) When the Commissioner of the Division or the District Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the '[Provincial Government], who may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

Powers of
Provincial
Government in
case of default.

549. (1) If at any time it appears to the '[Provincial Government], that the Commissioners have made default in performing any duty imposed on them by or under this or any other Act, the '[Provincial Government] may, by an order in writing, fix a time for the performance of that duty.

(2) If such duty is not performed within the period so fixed, the '[Provincial Government] may appoint the District Magistrate to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate from the Municipal Fund.

Power of
Provincial
Government to
supersede a
department of a
municipality.

550. (1) If in the opinion of the '[Provincial Government] the Commissioners—

(i) have shewn their incompetency to perform, or have persistently made default in the performance of the duties imposed on them by or under this Act or by any other law; or

(ii) have exceeded or abused their powers,

in respect of any department under their control, the '[Provincial Government] may, except in the case of any emergency of which the '[Provincial Government] shall be the sole judge, by written order, direct the Commissioners within a period to be specified in the order to show cause to the satisfaction of the '[Provincial Government] against the making of an appointment referred to in sub-section (2).

(2) If within the period fixed by any order issued under sub-section (1) cause has not been shown to the satisfaction of the '[Provincial Government], it may by an order published, with the reasons for making it,

¹See foot-note 3 on p. 1, *ante*.

of 1932.]

(Chapter XXVII.—*Delegation of powers and control.*—*Secs. 551, 552.*)

in the ²[*Official Gazette*], appoint a suitable person to be in charge of the department for a period to be specified in the order ³[so published] who shall during such period exercise all the powers and perform all the duties of the Chairman and of the Commissioners whether at a meeting or otherwise in respect of that department.

(3) The ¹[Provincial Government] in making such order shall direct that the expense of performing the duties of the department together with such remuneration as the ¹[Provincial Government] may allow from time to time to such person shall be paid within such time as it may fix from the Municipal Fund.

(4) If any dispute arises as to whether any particular power or duty relates to the department made over to such officer the matter shall be referred to the District Magistrate whose decision shall be final.

551. If the expense is not paid under sub-section (2) of section 549 or under sub-section (3) of section 550 the District Magistrate, with the previous sanction of the ¹[Provincial Government], may make an order directing the person having the custody of the balance of the Municipal Fund to pay the expense, or so much thereof as is from time to time payable from the balance, in priority to any other charges against the same and such person shall pay accordingly.

Power to District Magistrate to direct payment of expenses from Municipal Fund.

552. If, in the opinion of the ¹[Provincial Government], the Commissioners have shown their incompetency to perform or have persistently made default in the performance of the duties imposed on them by or under this Act or by any other law, or have exceeded or abused their powers, the ¹[Provincial Government] may, by an order published, with the reasons for making it, in the ²[*Official Gazette*], direct that a fresh general election shall be held, and fresh appointments shall be made immediately of persons to be Commissioners; and from the date on which the results of such new election and appointment of Commissioners are published in accordance with the provisions of section 50 the former Commissioners shall, unless they are re-elected or re-appointed, vacate their offices:

Power to dissolve body of Commissioners.

Provided that the tenure of office of the Chairman of the outgoing body of Commissioners shall continue until that office is vacated in the manner provided by section 59.

¹See foot-note 3 on p. 1, *ante*.

²See foot-note 1 on 6, *ante*.

³These words were inserted by s. 44 of the Bengal Municipal (Amendment) Act, 1936 (Ben. Act XI of 1936).

(Chapter XXVII.—*Delegation of powers and control.*—
Secs. 553, 554.)

Power to
supersede Com-
missioners in case
of incompetency,
default or abuse
of powers.

553. If, in the opinion of the ¹[Provincial Government], the Commissioners have shown their incompetency to perform, or have persistently made default in the performance of the duties imposed on them by or under this Act or by any other law, or have exceeded or abused their powers, the ¹[Provincial Government] may, by an order published with the reasons for making it, in the ²[*Official Gazette*], declare such Commissioners to be incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order:

Provided that except in case of misappropriation of municipal funds or persistent default in the performance of duties by the Commissioners the ¹[Provincial Government] shall not ordinarily exercise power under this section until action has been taken under section 552.

Consequence of
supersession.

554. (1) When an order of supersession has been passed under section 553, the following consequences shall ensue:—

- (a) all the Commissioners shall, as from the date of the order, vacate their offices as such Commissioners;
- (b) all the powers and duties which may, under the provisions of this Act or any rule or by-law made thereunder, be exercised and performed by the Chairman and by the Commissioners whether at a meeting or otherwise, shall, during the period of supersession, be exercised and performed by such person or persons as the ¹[Provincial Government] may direct;
- (c) all property vested in such Commissioners shall, during the period of supersession, ³[vest in His Majesty for the purposes of the Province].

(2) On the expiration of the period of supersession specified in the order, the ¹[Provincial Government] may—

- (i) extend the period of supersession for such further term as it may consider necessary, or
- (ii) reconstitute the Commissioners of the municipality by a fresh general election and fresh appointment and the persons who vacated their offices under clause (a) of sub-section (1) shall

¹See foot-note 3 on p. 1, *ante*.

²See foot-note 1 on p. 6, *ante*.

³These words were substituted for the words "vest in the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

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(Chapter XXVII.—*Delegation of powers and control.*—
Secs. 555—557—Schedule I.)

not be deemed disqualified for election or appointment, or

- (iii) reconstitute the Commissioners of the Municipality by appointment only for such period as it may consider necessary and the persons who vacated their offices under clause (a) of sub-section (1) shall not be deemed disqualified for appointment:

Provided that the ¹[Provincial Government] may, if circumstances permit, at any time before the expiration of the period of supersession take action either under clause (ii) or clause (iii) of this sub-section.

555. Where specific provision is made in any section of this Act for its being extended by the ¹[Provincial Government] to any municipality, the ¹[Provincial Government] may, at any time, by order, withdraw any section it may thus have extended to any municipality from operation in such municipality, and such section shall cease to have effect in the said municipality from the date of such order.

Withdrawal of sections expressly extended by the Provincial Government.

556. If any dispute arising out of the operation of this Act, for the decision of which this Act does not otherwise provide, arises between the Commissioners of any municipality constituted under this Act, and any other local authority, such dispute shall be referred to the ¹[Provincial Government] whose decision shall be final and shall not be questioned in any court.

Disputes.

557. (1) The ¹[Provincial Government] may by rules alter, add to or cancel any rule or parts thereof or may by notification alter, add, or cancel any entry contained in Schedules III, IV, VII, VIII and IX to this Act.

Power to Provincial Government to make rules for the amendment of certain schedules.

(2) All references in this Act to any schedule which may be amended under sub-section (1) or under sub-section (2) of section 17, or sub-section (4) of section 124 shall be construed as references to such schedules as for the time being amended.

SCHEDULE I.

[*Enactments repealed.*]

Rep. by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

¹See foot-note 3 on p. 1, ante.

(Schedules II, III and IV.)

SCHEDULE II.

(See section 17.)

Municipalities in which four-fifths of the total number of Commissioners shall be elected and the remaining one-fifth appointed by the '[Provincial Government].

Municipality.
Howrah.
Dacca.
Chittagong.

SCHEDULE III.

(See sections 123, 168, 169, 171, 172 and 557.)

Tax on carriages, and on horses and other animals.

			Per half-year.	
			Rs.	a.
(1)	On every jin-rickshaw	2	0
(2)	On every 4-wheeled carriage drawn by two horses	6	0
(3)	On every 4-wheeled carriage drawn by one horse or a pair of ponies under thirteen hands	4	8
(4)	On every 2-wheeled carriage	3	0
(5)	On every horse	3	0
(6)	On every pony under thirteen hands and on every mule and donkey	1	8
(7)	On every elephant	9	0
(8)	On every camel	4	0
(9)	On every 4-wheeled carriage drawn by one pony under thirteen hands	3	0

SCHEDULE IV.

(See sections 123, 182, 215 and 557.)

Tax on trades, professions and callings.

Every license shall be granted under one or other of the classes mentioned in the second column of the following table and there shall be paid half-yearly for the

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(Schedule IV.)

same a tax not exceeding the amount mentioned in that behalf in the third column of the table:—

Serial No.	Classes.	Maximum half-yearly tax in rupees.
1	2	3
		Ra.
1	Company transacting business within the municipality for profit or as a benefit society ¹ [not being a registered co-operative society] of which the paid-up capital is equivalent to—	
	(a) More than Rs. 10,00,000 ..	200
	(b) More than Rs. 5,00,000 but not more than Rs. 10,00,000 ..	100
	(c) More than Rs. 1,00,000 but not more than Rs. 5,00,000 ..	50
	(d) Rs. 1,00,000 or less ..	20
2	Merchant, banker, ¹ [not being a registered co-operative society], money-lender, wholesale trader, owner or occupier of a market, bazar or theatre or place of public entertainment, broker or <i>dalal</i> in jute, cotton, precious stones, landed property, country produce, silk or other merchandise— whose place of business is valued under this Act at not less than—	
	(a) Rs. 100 per mensem ..	50
	(b) Rs. 50 per mensem ..	25
	(c) Rs. 25 per mensem ..	12
² [3]	Commission agent, broker not included in serial No. 2, architect, engineer, contractor, medical practitioner, dentist, barrister, legal practitioner—	
	(a) in respect of whose income income-tax is payable ..	10
	(b) in respect of whose income no income-tax is payable ..	5
² [4]	Retail trader or shop-keeper, boarding-house keeper, hotel-keeper, lodging house-keeper, tea-stall keeper, eating-house keeper— whose place of business is valued under this Act at not less than—	
	(a) Rs. 25 per mensem ..	8
	(b) Rs. 12 per mensem ..	2

¹These words were inserted by Notification No. 918M., dated the 18th February 1937, published in the *Calcutta Gazette*, dated the 25th February 1937, Pt. I, p. 372.

²Serial Nos. "3" and "4" were substituted for serial Nos. "4" and "5" respectively, by s. 12 of the Bengal Municipal (Amendment) Act, 1933 (Ben. Act IX of 1933).

(Schedules V and VI.—Rules as to the use of building-sites and the execution of building work.—Rules 1—3.)

SCHEDULE V.

(See section 124.)

Municipalities in which the rate on holdings may be fixed at fifteen per cent.

Municipality.
Howrah.
Dacca.
Kurseong.
Darjeeling.
Chittagong.

SCHEDULE VI.

(See sections 312, 313, 317, 318, 319, 321, 322, 326, 327, 328, 329, 330 and 364.)

Rules as to the use of building-sites and the execution of building work.

SECTION A.—Building-sites.

1. No piece of land shall be used as a building-site unless the Chairman is satisfied—

- (a) that the site is fit to be built upon from sanitary and engineering points of view;
- (b) that it is well-drained or is capable of being well-drained, and that the owner will take the necessary steps to drain it; and
- (c) that where the site is within thirty feet of a tank, the owner will take such measures as shall prevent any risk of the drainage from such building passing into the tank.

SECTION B.—Buildings generally (other than huts).

Part I.

2. Except with the written permission of the Chairman the foundation of buildings other than huts shall rest on natural ground.

3. The spread of the foundation shall be such that the pressure on the soil, taking into account the load on the floors and terrace roof (if any) shall not in any case exceed a maximum to be laid down by the Commissioners at a meeting with the approval of the '[Provincial Government].

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 4—15.)

4. The depths of the foundation shall be such as the Chairman may approve.

5. The plinth of every such building, except in the case of motor garages and coach houses, shall be at least one foot six inches above the level of the centre of the nearest street.

6. The plinth of stables and cowsheds shall be at least one foot above such level.

7. The walls of every such building shall be constructed upon proper footings.

8. The outer walls of every such building shall be constructed of brick or other substance of a hard and incombustible nature.

9. The walls of every such building shall be properly bonded.

10. If such building has more than one storey, every wall shall be of such thickness as the Chairman may consider necessary to ensure safety, regard being had to the height of the building, the materials of which it is constructed and the purpose for which it is intended to be put.

11. The floors of every such building shall be so constructed as to carry safely the maximum load, the allowance for live-load not being less than fifty-six pounds per square foot.

12. Every beam and girder in such building shall be supported by a breadth of brickwork, stone or other solid substance sufficient to secure stability.

13. The bearing of every beam or girder of a wall shall not, without the written permission of the Chairman, be less than three-fourths of the thickness of such wall.

14. No timber or woodwork in such a building shall be placed—

(a) in any wall or chimney-breast nearer than nine inches to the inside of any flue, stove-pipe or chimney-opening, and

(b) under any chimney-opening within 15 inches from the upper surface of the hearth thereof.

15. Every terraced roof shall be constructed to carry such load, not being less than forty pounds per square foot, in addition to its own weight as may be approved by the Chairman.

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 16—24.)

Part II.

16. The lowest floor of every building erected or reconstructed from the ground level shall be constructed at such a level as shall permit of such building being effectually drained and of the drainage being led into an existing or proposed public drain.

17. No building shall be erected or raised to a greater height than sixty feet measured from the level of the centre of the street in front—

(a) in the case of pitched roof, up to the tie-beam of the roof, and

(b) in the case of a flat roof, up to the surface of the roof.

18. In the case of a pitched roof, the roof above that height shall rise at an angle of not more than forty-five degrees.

19. In the case of a flat roof, no parapet shall be constructed more than three feet above the maximum height specified in rule 17.

20. If the width of the street does not exceed twenty-six feet, such building shall not be erected or raised to a height greater than one and a half times the width of such street.

21. If the width of the street exceeds twenty-six feet, but does not exceed forty feet, such building shall not be erected or raised to a height greater than forty feet.

22. If the width of the street exceeds forty feet, such building shall not be erected or raised to a height greater than the width of such street.

23. Where such building abuts upon more than one street, its height shall be regulated by the wider of such streets so far as it abuts upon such wider street, and also to a distance of eighty feet from such wider street so far as it abuts upon the narrower of such streets.

24. If the face of such building is set back from the street at any height not exceeding the height specified in rule 17, such building may be erected or raised to a height greater than that so specified, but not so that any portion of such building shall intersect any of a series of imaginary straight lines drawn from the line of set-back, in the direction of the portion set-back, at an angle of forty-five degrees with the horizontal.

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 25—33.)

25. Notwithstanding anything contained in the foregoing rules any house which has been demolished may, within a period of two years, from the date of its demolition, be re-erected to a height not exceeding its original height, provided that the onus of proving the height of the original building prior to demolition shall lie upon the person applying for sanction to re-build.

26. Every interior courtyard shall be raised at least one foot above the level of the centre of the nearest street, so as to admit of easy drainage into such street.

27. Every house, if this in the opinion of the Chairman be practicable, shall be provided with a secondary means of egress in case of fire.

With respect of roofs, floors and staircases.

28. The flat and roof of such building, and every turret, dormer, lantern-light, skylight, or other erection placed on the flat or roof of such building shall be externally covered with slates, tiles, metal, or other incombustible materials except as regards any door, door-frame, window or window-frame of any such turret, dormer, lantern-light, skylight or other erection.

29. In every new public building, the floor of every lobby, corridor, passage and landing which is not intended solely as a means of access to any private apartment, and all the supports of every such floor shall be constructed of stone or other incombustible or fire-resisting materials, and shall be of adequate strength.

30. Every staircase in a new building shall be properly constructed of sound and suitable materials, and securely fixed and shall be of adequate strength.

31. In every new public building every staircase which is not intended solely as a means of access to any private apartment shall be constructed of incombustible materials, and carried by supports of incombustible materials and shall be furnished on each side with a sufficient hand-rail, properly and securely fixed.

32. In every new public building every staircase which is intended solely as a means of access to any private apartments shall be provided with a sufficient hand-rail properly and securely fixed.

33. In every new building containing separate sets of chambers or offices or rooms constructed or intended or adapted to be tenanted by different persons, and which

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 34—38.)

shall exceed fifty thousand feet in cubic content, the floor or every lobby, corridor, passage and landing and every flight of stairs in any staircase in such building, and all the supports of every such floor and flight of stairs shall be constructed of stone or other fire-resisting material, and shall be of adequate strength and the principal staircase and landings of such building shall be enclosed with walls, not less than nine inches in thickness, constructed of good, hard, sound, well-burnt bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together.

SECTION C.—*Dwelling houses and other domestic buildings (other than huts).*

34. The total area covered by all the buildings on any site used for a dwelling house shall not exceed two-thirds of the total area of the site, and the area so covered shall form part of the site, and no building or part of a building shall be erected so as to encroach upon the area so left vacant.

35. There shall be at the back of domestic building an open space—

- (a) extending along the entire width of the building;
- (b) exclusively belonging to such building;
- (c) free from any erection thereon above the level of the ground, except a water-closet, earth-closet, or ash-pit; and
- (d) not less than ten feet in width from every part of the back of such building to the opposite boundary of the premises.

36. If the height of such building be not less than thirty feet, the width of such open space shall not be less than fifteen feet, and if such height exceed forty-five feet the width shall not be less than twenty-five feet.

37. This rule shall not apply where the back of a building abuts on a public square or street or a place dedicated to public use and not likely to be built upon not less than six feet in width, but in such cases, the height of the building shall nevertheless, in accordance with the provisions of rules 17 to 25, be regulated by the width of the public square, street or place on which it abuts.

38. For the purposes of rule 37, the back of a building shall be deemed to be that face of the building which is furthest from any street at the side of which the building is situated:

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 39—41.)

Provided that, where a building is situated at the side of more than one street, the back of the building shall, unless the Chairman otherwise direct, be deemed to be that face of the building which is furthest from the widest of such streets.

39. If any person desires to erect a domestic building upon a site which is irregular or is of such a nature that it is impracticable to provide an open space in the rear of the building of the dimensions prescribed by rule 35 or rule 36, the Chairman may relax the provisions of those rules:

Provided that—

- (a) such open space shall be left as the Chairman may consider practicable, having regard to all the circumstances of the case, and
- (b) not more than two-thirds of the total area of the site shall be occupied by buildings.

40. (1) If either side of a domestic building is not attached to the adjacent building, and if such side does not abut on a public square or street which is not less than six feet in width,

there shall be between the buildings an open space extending along the entire length of such side and forming part of the said domestic building:

Provided that attachment of any building to the adjacent building shall not be allowed (except with the permission of the Chairman) if either of the buildings is a dwelling house.

(2) The minimum distance across such space from every part of the said domestic building to the boundary line of the land or building immediately opposite such part shall be—

- (a) six feet, if there is a building next to such boundary line or within two feet of it, or
- (b) four feet, if there is an open space of two feet or more on either side of such boundary line:

Provided that, where there is a public street which is less than six feet wide by the side of the site, the owner may, by giving to the Commissioners free of charge such land as will make the street six feet wide, be exempted from leaving further side space under this rule.

41. Every room used or intended to be used for purposes of human habitation—

- (a) shall be in every part less than nine feet in height, measured from the floor to the underside of the beam on which the roof rests;

[Ben. Act XV]

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 42, 43.)

- (b) shall have a superficial area of not less than eighty square feet; and
- (c) shall be provided, for purposes of ventilation, with doors or windows opening directly into the external air or into an open verandah.

42. (1) Every building used or intended to be used for purposes of human habitation shall be so constructed that every room therein shall have at least one side abutting for the whole of its length (which shall, in no case, be less than eight feet) on an open space, either external or internal. The internal open space shall, in no case, be less than eight feet across in any direction. The external open space shall, in no case, be less than eight feet across in any direction, except when such open space abuts for the whole of its length on a street or other public space which is not less than fifteen feet across in any direction.

(2) A building shall not be held to contravene sub-rule (1) of this rule if one side of a room abuts on an internal or external verandah, provided that the verandah in its turn abuts for the whole of its length on an open space and that the width of such open space (not being less than eight feet) is double the width of the verandah.

(3) Every open space, external or internal, required by sub-rule (1) of this rule, shall be free and shall be kept free, from any erection thereon and shall be open to the sky.

(4) The side of every such room abutting on an external or internal open space or an external or internal verandah shall have at least one-fifth of its area occupied by doors, windows or ventilators, but, in no case, shall the area so occupied be less than twenty-four square feet. Where, in the opinion of the Chairman, it shall be considered necessary, additional ventilators of a type approved by the Chairman shall be provided in the remaining sides of such room. Such ventilators shall communicate directly with the open air.

SECTION D.—Applications for approval of sites for, and for permission to construct or reconstruct, buildings other than huts.

43. Every application for approval of a site for a building and for permission to execute the work of constructing or reconstructing such building shall be submitted in the form given in Form A attached to these rules (to be supplied by the Chairman free of charge).

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 44, 45.)

44. Every such application shall be accompanied by a site-plan in duplicate drawn to a scale of not less than one-fiftieth of an inch to a foot.

45. Every such site-plan shall show—

- (a) the boundaries of the site and of any contiguous land belonging to the owner thereof,
- (b) the position of the site in relation to neighbouring streets,
- (c) the name of the street in which it is proposed to erect the building,
- (d) the position of the building, and of all other building (if any), which the applicant intends to erect upon his contiguous land referred to in clause (a), in relation to—
 - (i) the boundaries of the site, and in a case where the site has been partitioned the boundaries of the portion owned by the applicant and also the portions owned by the other owners, and
 - (ii) all adjacent streets, buildings and premises within a distance of forty-feet of the site and of the contiguous land (if any), referred to in clause (a),
- (e) the means of access from the street to the building, and to all other buildings (if any), which the applicant intends to erect upon his contiguous land referred to in clause (a),
- (f) the position and approximate height and the number of stories of all other buildings within forty feet of the site,
- (g) the position and dimensions of proposed kitchens, staircases, urinals, drains, cess-pools, stables, cattle-sheds, cow-houses, wells and other appurtenances of the building,
- (h) the free passage or way in front of the building,
- (i) the space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes,
- (j) the width of the street (if any) in front, and of the street (if any) at the rear of the building, and
- (k) such other particulars as may be required by the Commissioners.

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 46—50.)

46. Every application to construct or re-construct a building shall also be accompanied by a plan in duplicate of the proposed building showing both elevations and sections properly coloured and neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot.

47. Every such plan shall show—

- (a) the depth and width of the foundations of the building,
- (b) the level of the lowest floor of the building, and
- (c) the level of all courtyards and open spaces in the building or premises and the plinth level of buildings with reference to the level of the centre of the nearest street.

48. Every such application shall further be accompanied by a specification giving the following information—

- (a) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places and chimneys;
- (b) the manner in which roof and house drainage and the surface drainage of the site will be disposed of;
- (c) the manner, if any, in which it is proposed to pave the courtyard and open spaces in the building or premises and the slope to which the surface is to be made in each case;
- (d) the means of access that will be available to scavengers for the cleansing of privies;
- (e) the purpose for which it is intended to use the building;
- (f) the means of ingress and egress, if the building is intended to be used as a dwelling-house for two or more families or as a place for carrying on any trade or business in which more than twenty people may be employed or as a place of public resort; and
- (g) such other particulars as may be required by the Commissioners.

49. The plans shall be signed by the applicant.

50. All information and documents which it may be found necessary to require, and all objections which it may be found necessary to make, before deciding whether a site should be approved for a building or whether permission, to construct or re-construct a

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 51—58.)

building should be given, shall be required and made in one requisition and the applicant shall be apprised thereof at the earliest possible date.

51. Within fifteen working days from the date of receipt of an application under section 317, the Chairman may require the applicant—

- (a) to furnish him with any information on matters referred to in these rules which has not already been given in the documents thereunder, or
- (b) to satisfy him that there are no objections which may lawfully be taken to the approval of the site.

52. If any information or document required under rules 50 and 51 is, in the opinion of the Chairman, incomplete or defective, he may, within fifteen working days from the date of receipt of the same, require further information or documents to be furnished.

53. If any requisition made under rules 51 and 52 is not complied with within three months, the application under section 317 shall be refused.

54. When the Chairman has approved any site-plan or given permission to execute any work, he shall sign such site-plan of the work, as the case may be.

55. One copy of the site-plans and one copy of the building plans shall be kept at the site of the building, at all times when building operations are in progress, and such plans shall be available at all such times for the inspection of the Chairman or of any officer authorized by him in that behalf.

SECTION E.—*Huts generally.*

56. Except with the written permission of the Chairman, no portion of a hut shall be placed within six feet of a masonry or wooden building; provided that this rule shall not preclude the construction of huts in compounds, in any case, where masonry or wooden outhouses would be permissible.

57. No hut shall be of more than two storeys nor exceed twenty feet in height, measured from the top of the plinth to the junction of the eaves and wall.

58. The plinth of a hut shall be raised at least one foot above the level of the centre of the nearest street or passage.

[Ben. Act XV]

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 59—67.)

SECTION F.—Huts on lands exclusively set apart for the same.

59. Huts on land exclusively set apart for the same shall be built in continuous lines, in accordance with alignments to be prescribed by the Commissioners.

60. Where an alignment prescribed under rule 59 does not correspond with the alignment of a street, a passage of at least twenty feet, measured from eave to eave, shall be left between the rows of huts abutting on such prescribed alignment.

61. All passages referred to in rule 60 shall remain private property, subject to a right in the municipal authorities to send carts along them or otherwise make use of them for any of the purposes of this Act.

62. Notwithstanding anything contained in rule 59 huts may, with the general sanction of the Commissioners, be built so as to form an open courtyard, comprising at least one-fourth of the whole area occupied by the huts and courtyard, where the huts are of only one storey and at least one-third of such whole area where there are one or more two-storied huts on more than one side of the courtyard.

63. There shall be between any two huts a space of at least three feet, measured from eave to eave.

SECTION G.—Applications for permission to construct or reconstruct huts.

64. Every application for permission to construct or reconstruct a hut shall be submitted in the form given in Form B attached to these rules (to be supplied by the Chairman free of charge).

65. If it is intended to use the hut or part thereof for any of the purposes specified in section 370 of the Act or as a stable, cattle-shed or cow-house, the fact shall be expressly stated in such application.

66. Every such application shall be accompanied by a site-plan showing the hut, the means of access thereto from the street, and such other particulars as may be required by the Commissioners.

67. The Chairman may require the applicant—

- (a) to furnish him with any information which has not already been given, or
- (b) to satisfy him that there are no objections which may lawfully be taken to the grant of permission to execute the work.

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(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Rules 68, 69.—Form A.)

68. If any information or plan required under rule 66 or rule 67 is, in the opinion of the Chairman, incomplete or defective, he may require further information or a fresh plan to be furnished.

69. If any requisition made under rule 67 or rule 68 is not complied with within two months, the application received under section 317 shall be refused.

FORM A.¹

(Sec rule 43.)

Dated.....

Application for permission to construct or reconstruct a masonry building.

To

The Chairman,.....Municipality.

Sir,

I beg to give notice that I intend to construct or reconstruct a masonry building or make alterations in or additions to premises No....., in street,ward, and in accordance with the provisions of section 317, read with section 326, I forward herewith--

- (a) a site-plan in duplicate of the land for your approval,
- (b) a plan in duplicate showing elevations and sections of the proposed building together with a specification of the work, and
- (c) other particulars.

I request that the site may be approved and that permission may be accorded to execute the work.

Signature of the owner.....

Address

¹Published under notification No. 49T.—M., dated the 4th May 1933, in the *Calcutta Gazette* of the 18th *idem*, Pt. I, p. 729.

[Ben. Act XV]

(Schedule VI.—Rules as to the use of building-sites and the execution of building work.—Form B.—Schedule VII.—Rules for the construction, etc., of private roads and bridges.—Rule 1.)

FORM B.¹

(See rule 64.)

Dated.....

Application for permission to construct or re-construct a hut.

To

The Chairman,Municipality.

Sir,

I beg to give notice that I intend to construct or re-construct a hut or huts in.....street,ward, and, in accordance with the provision of section 317, read with section 326, I forward herewith a site-plan, in duplicate, showing the hut, the means of access thereto from the street, the position and nature of the nearest source of water-supply, the purpose for which the hut is proposed to be erected and other particulars.

I request that the site may be approved and that permission may be accorded to execute the said work.

Signature of the owner.....

Address

SCHEDULE VII.

(See sections 474, 477 and 557.)

Rules for the construction, etc., of private roads and bridges.

PART I.—*Roads.*

1. (1) Every application for permission to construct, re-construct or alter a private road other than a foot-path must be accompanied by—

- (a) a plan of the road, showing cross-sections,
- (b) type-drawings of all bridges to be provided or already provided for the road, and

Application for permission to construct, re-construct, or alter a private road.

¹Published under notification No. 49T.—M., dated the 4th May 1933, in the *Calcutta Gazette* of the 18th *idem*, Pt. I, p. 729.

of 1932.]

(Schedule VII.—Rules for the construction, etc., of private roads and bridges.—Rules 2—9.)

(c) a description of the provision which it is intended to make or which already exists in respect of retaining-walls and revetments (if any) and drainage.

(2) Every application for permission to construct, re-construct or alter a private footpath must be accompanied by a full description of the path.

2. (1) A private road must be so constructed as to have a slope inwards towards the hillside.

(2) Such slope must be not less than the gradient of the road.

3. (1) Whenever the Commissioners so direct, the outer edge of a private road must be protected by retaining-walls, and the inner cutting by revetments. Retaining-walls and revetments.

(2) Such walls and revetments must be of such number and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule IX.

4. A stone-lined-drain must be provided on the inner-side of a private road, where such side is not rock. Drain.

PART II.—Bridges.

5. Every application for permission to construct, re-construct or alter a private bridge must be accompanied by drawings of the bridge. Application for permission to construct, re-construct or alter a private bridge.

6. A private bridge must be constructed so as to leave sufficient waterway to pass the *maximum* discharge of the channel spanned by the bridge. Waterway.

7. The flooring placed in the bed of the channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel. Slope of flooring under bridge.

8. When a pocket for the deposit of *debris* is cut in the hillside above a private bridge, otherwise than in solid rock, such pocket must be lined with masonry walling. Pocket above bridge.

9. When a small drain is crossed by a private road, a wooden or iron grating must, if the Commissioners so direct, be laid over the drain, instead of a covered culvert. Substitution of gratings for culverts.

(Schedule VIII.—Rules for the construction, etc., of private drains.—Rules 1 to 6.—Schedule IX.—Rules as to revetting, turfing and sloping.—Rule 1.)

SCHEDULE VIII.

(See sections 471, 482 and 557.)

Rules for the construction, etc., of private drains.

Construction of drains for sullage water.

1. Drains for sullage water shall be constructed with half or one-third glazed earthenware tile invert and cement sides.

Construction of drains for surface water.

2. (1) Drains for surface water only may be constructed either of dry rubble masonry or of any other material approved by the Commissioners, and may be either rectangular or U-shaped or V-shaped in section.

(2) Such drains shall not be connected with any drain carrying sullage water or sewage.

Drains to be open.

3. Except with the written permission of the Commissioners no covered drain shall be constructed and no open drain shall be covered in.

Sectional area.

4. The sectional area of every drain shall be subject to the approval of the Commissioners.

Discharge.

5. (1) Drains must discharge into the nearest water-channel or public drain, unless in any case the Commissioners otherwise direct.

(2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.

(3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimize the risk of damage to the public drain or road.

Drain round masonry or framed building.

6. A masonry drain must be placed round every masonry or framed building or block of such buildings, and the site must be sloped from all sides towards such drain.

SCHEDULE IX.

(See sections 492 and 557.)

Rules as to revetting, turfing and sloping.

PART I.—Retretments, Retaining-walls and Toe-walls.

Foundation and bed-line.

1. (1) The foundation of every retretment, retaining-wall or toe-wall must be taken down to original and firm soil or rock; and the bed-line must be cut at right angles with the face of the retretment or wall.

(2) The building of any retretment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.

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(Schedule IX.—Rules as to revetting, turfing and sloping.—Rules 2—8.)

2. (1) A revetment, retaining-wall or toe-wall may be made of dry rubble masonry, but must, in any case in which the Commissioners so direct, be made of lime masonry. Materials.

(2) No stone used shall be of greater height than its length or breadth.

3. All stones used must be laid on their natural beds, and must be arranged so as to break joint as far as may be possible. Laying of stones.

4. (1) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below. Bonding.

(2) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.

5. Every revetment, retaining-wall or toe-wall must be built up solid to full section; and spawls or chips shall not be used for filling the courses unless their use is unavoidable. Solidity.

6. Weep-holes must be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground level. Weep-holes.

7. (1) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings: Sections.

Provided that the width at the top shall in no case be less than one foot six inches and need not in any case exceed three feet six inches.

(2) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is surcharged, sub-rule (1) shall apply, the height being assumed for the purposes of that sub-rule to be one-and-a-half times the vertical height.

(3) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

PART II.—Sloping.

8. When, in pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°. Angle.



